the Freeman

Ideas on Liberty

JUNE 1972

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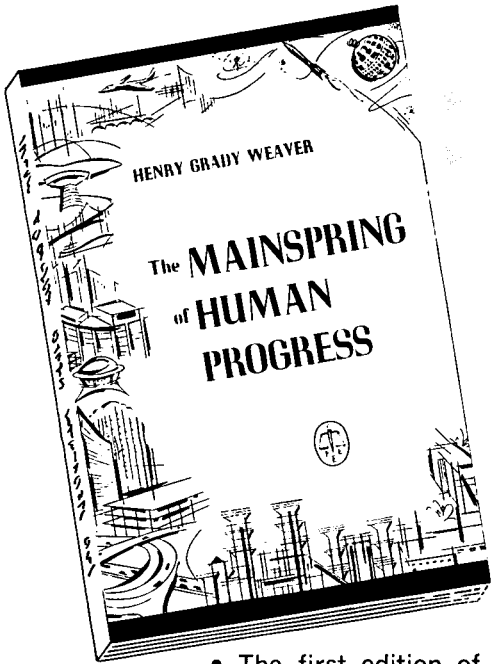

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When men appeal from TYRANNY to GOD

EDWARD COLESON

OPPRESSION is as old as mankind and unfortunately is still with us. A few decades ago we were certain that we were rapidly outgrowing this ancient affliction with the advance of civilization, but these hopes have not materialized. Still the quest continues. There are those who look back to a golden age of freedom and brotherhood in the past, while others seek to find their earthly paradise with the children of nature on a remote tropical island somewhere. It may be an interesting exercise of the imagination to dream up an idyllic state of nature where "noble savages" are truly brothers and they all live happily ever after. Yet, Rousseau and a lot of other romantic visionaries notwithstanding, there have been relatively few Utopias over the ages.

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Hobbes[1] much more realistically described life in this state of nature as "nasty, brutish and short." It is not only that primitive man finds it difficult to satisfy his needs with his bare hands or crude tools, but that men prey upon each other. To Hobbes men were brutes so life degenerated into a perpetual condition of "war of every man against every" other in a struggle not just to survive, as Darwin would say, but to dominate his fellows. For man is possessed of "a perpetual and restless desire of power after power that ceaseth only in death." President Wilson pressed for "self determination" as a right of all peoples during World War I on the assumption that they wanted to rule themselves. According to Hobbes, they want to rule each other. Nor is this view unique.

Adam Smith[2] suggests that this

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lust for power may be the principal motive for slavery: "The pride of man makes him love to domineer, . . . therefore, he will generally prefer the service of slaves to that of freemen." In fact Smith couldn't find much excuse for the "peculiar institution" but this urge to dominate others. He was convinced that "work done by slaves . . . is in the end the dearest of any," for the slave "can have no other interest but to eat as much, and to labor as little as possible." He was certain that "the cultivation of corn degenerated" and became unprofitable under slave labor in ancient Italy and Greece. He observed that "a small part of the West of Europe is the only portion of the globe that is free from slavery," but that this small part "is nothing in comparison with the vast continents where it still prevails." Smith thus linked prosperity with freedom and believed that the human family paid dearly for the luxury of permitting a few to enslave their fellows. If slavery is immoral and uneconomic, how can we banish this ancient evil from the earth?

Total Tyranny and Split-Level Freedom

Historically, slavery has existed on two levels. Sometimes there have been slave states where almost everyone was subject to the whim of a despotic monarch. Long ago the Near East had its rulers who could execute their subjects, even those about the throne, on command without even the pretense of a trial. Ancient Greece had its tyrants, too, who were often not much more restrained, in spite of all their democratic pretensions. We used to think that tyranny belonged to the dark ages of the past or to some primitive area of the earth inhabited by cannibals, but Joseph Stalin demonstrated that a ruler today can hold a nation in bondage as no ancient despot could have done. We are finding that the tools of modern science which we hoped would liberate us can most effectively enslave us, and perhaps we have seen only the beginnings of scientific despotism in the "Brave New World" of the future. Whether the masters who run the apparatus will get caught in the machinery and will also be enslaved is a good question, but historically it has been found that the other end of the slave's chain also bound the master.

The world has had considerable experience with societies which were presumed to be half slave and half free. The democratic Greeks attempted to operate at both levels, and the aristocratic masters of our Old South claimed all the "rights of Englishmen"

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which they denied to their own slaves while they were fighting George III. Even slaveholders recognized their inconsistency and sought to have the situation remedied as they set up their new government. At the time of the Constitutional Convention, Colonel George Mason of Virginia, himself a slaveholder, condemned slavery, the great evil of his day, in words that were indeed prophetic:

> The western people are already calling out for slaves for their new land. Slavery discourages arts and manufacture. The poor despise labor when performed by slaves. They produce the most pernicious effect on manners. Every master of slaves is born a petty tyrant. They bring the judgment of Heaven on a country. As nations cannot be rewarded or punished in the next world they must be in this. By an inevitable chain of cause and effect Providence punishes national sins by national calamities.[3]

The Foundations of Our Freedom

Our Founding Fathers quite properly had a bad conscience because of their own inconsistencies, for their claims to freedom were based on an appeal to a Higher Power, not just to some abstract principles as with the French Revolution a few years later. After all, their ancestors had resisted the tyranny of their rulers for centuries by insisting that "the King is also under God and under the Law." The Puritans had even fought a war with Charles I a little more than a century and a quarter before our Revolution to maintain their God-given right to freedom. Patrick Henry later reminded George III that Charles I had had his Cromwell just as Caesar had had his Brutus, but the figure of speech was not appropriate. It would have been more fitting to remind His Majesty that David had had his Nathan, Ahab his Elijah, Belshazzar his Daniel, and Herod his John the Baptist, to name a few kings and their prophets; like Byron's "Prisoner of Chillon,"[4] the Puritans were wont to "appeal from tyranny to God." This was more than a pious gesture or a political gimmick, more than high sounding rhetoric without any basis in reality. The Puritans were men of a Book and they found principles therein that applied to the Old Testament era and to the England of the Stuarts as well.

The typical oriental despot of the ancient Near East was a god-king, head of both Church and State. When religion was a powerful force, this gave his subjects no appeal from his authority. The Hebrew prophets resisted similar pressures from their rulers and never let them forget that "the

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most High ruleth in the kingdom of men. . . ." (Daniel 4:25) This was the Puritan approach. In like manner a few hardy Germans more recently reminded Hitler, "Gott is mein Führer." Such thinking is so foreign to modern philosophy and legal theory that Hitler had his way with the German nation – to its ultimate destruction. But it has not always been so.

The men who founded our nation were very conscious of the concept of a Higher Law. It would not be an exaggeration to say our government was founded on this principle. Ten years before our "embattled farmers fired the shot heard round the world" at Lexington and Concord, William Blackstone began the publication of his famous *Commentaries on the Laws of England*, dedicated to the proposition that God is the ultimate authority. The colonists so avidly seized on his writings that a decade later Burke told Parliament, on the eve of the American Revolution, that there were more copies of Blackstone's *Commentaries* in the Colonies than in England.

It has been customary in the "debunking era" of the recent past to insist that our colonial leaders were not saints and that those who may have made any religious pretensions were more apt to be Deists than Christians. Certainly there was a considerable influence from the Enlightenment on this side of the Atlantic, but at least Deists believed in God's Law. Even such a notorious enemy of the "religious establishment" as Voltaire is quoted as saying that if there were no God, we should have to invent one. By contrast, contemporary philosophers say, according to Harvey Cox,[5] "If God did exist, we should have to abolish Him." We have come a long way since the founding of this nation and it has not all been uphill. If they did not always live up to the standards set by their own consciences, as in the case of slavery, they were still painfully aware of their shortcomings. They also believed in their accountability to the Judge of all the earth "God is not dead, nor doth he sleep," as Longfellow tells us in the familiar Christmas carol.

God's Law and Human Freedom

A significant but little-known development of the pre-Revolutionary era was the abolition of slavery in England. In 1765, the same year Blackstone began publication of his *Commentaries*, an obscure government clerk, Granville Sharp, met an injured slave on the streets of London near the office of his brother, a kindly physician. The slave had been severely beaten by his master and cast out into the

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street to die. The Sharps eventually nursed him back to health and strength, and got him a job. That might have ended it all but the ex-master later saw his slave, now recovered in value, and attempted to get him back. When the slave resisted capture, he was thrown into jail; but Granville Sharp got word of it and had the man released because he had been arrested without a warrant, contrary to English law. When Sharp took the unfortunate man to his home for shelter, the master prosecuted him for theft of his slave.

In the ensuing litigation and other cases that came up in the next few years, Granville Sharp began pressing for the abolition of slavery. Although no lawyer and certainly no part of the ruling class, his propaganda campaign, largely directed toward the legal profession at this time, was so effective that the "King's Bench," the British Supreme Court, finally liberated all the slaves in England. This historic decision of Lord Chief Justice Mansfield was passed down on June 22, 1772, just two centuries ago. Said Mansfield, "Tracing the subject to natural principles (the Moral Law), the claim of slavery can never be supported." Actually, the number of slaves freed was relatively small, perhaps fourteen or fifteen thousand, mostly servants of retired West Indian sugar planters, but it was a start. Here was a clear application of Blackstone's principle that the Law of God should be the ultimate standard.

Sad to say, Blackstone had not been that helpful in the protracted litigation: he was also concerned with previous legal opinions and property rights. After all, the market value of the freed slaves may easily have exceeded seven hundred thousand pounds sterling,[6] no small loss to the slave-holding class. Nevertheless, it was Blackstone's doctrine of the Moral Law which was clearly basic to the decision, though the concept was neither new nor unique. John Wesley, the popular preacher of the day, said the same thing: "In spite of ten thousand laws, right is right and wrong is wrong still." Can it be that the law-abiding habits of the English people are rooted in the ancient conviction that there is an ultimate *right* and *wrong* which even the king is powerless to alter? With lawlessness threatening to destroy our nation, perhaps it is about time to re-examine the foundations of our legal code. Why should anyone respect law when he knows that too much of it represents the conniving of pressure groups, seeking to rig the market in their favor and to rook the rest of us?

The next success in the cam-

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paign against slavery was slow in coming and was largely the work of another, William Wilberforce. Unlike Sharp, Wilberforce was an aristocrat, a member of Parliament, and an astute politician. He was also recognized as a gifted speaker, even in an age of great orators. In spite of his obvious talents, Wilberforce almost left Parliament when he rather suddenly became a Christian convert of the Reverend John Newton, a former slave-trading sea captain turned preacher and author of "Amazing Grace". Wilberforce nearly decided that politics was unsuited to a Christian. At this crucial point in his career his friends enlisted him in the war against slavery, and the fight dominated the rest of his life.

The abolitionists chose first to attempt to stop the commerce in slaves across the Atlantic. Wilberforce gave his first great antislavery address in Parliament in the spring of 1789, introducing his bill for the abolition of the slave trade. Two months later, the Bastille was stormed in Paris across the Channel and the French Revolution was on. Unlike Edmund Burke, Wilberforce was enthusiastic about the changes coming in France ("Bliss was it in that dawn to be alive," said Wordsworth), and had high hopes that "Liberty, Equality and Fraternity" meant freedom for the slaves.

The French Revolution and the Napoleonic Wars which followed no doubt hindered the English abolition campaign, but finally in 1807 Wilberforce pushed the anti-slave-trade bill through Parliament. The big job then was to enforce it. The Royal Navy policed the tropical waters of the Atlantic between Africa and the Americas, the notorious "Middle Passage," for the next half century and more until our Civil War effectively stopped the trade (the importation of slaves had been illegal here also for decades but smuggling continued as long as there was a market).

The British naval patrol operated out of the excellent harbor at Freetown in Sierra Leone, West Africa. Here the maritime court sat, and here captured slavers were brought for judgment. If they were convicted, they lost their ship and cargo, an assorted collection of several hundred Africans. The liberated slaves were settled in villages about Freetown to be civilized, educated and, hopefully, Christianized. English missionary societies invested many pounds and many lives in the venture. After all, this was the "White Man's Grave." Since the slaves came from any point along the Guinea Coast of Africa where they could be obtained, they were

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very diverse linguistically and culturally. It was said that a hundred different languages and dialects were spoken on the streets of Freetown in those days. It was a costly project, and often a heart-rending one too; and the British stood to gain nothing in the transaction. Yet, Wilberforce and others continued to press the battle on every front in spite of continuing frustration.

The final victory in the English abolition campaign came long after the slave trade was outlawed. The remaining step was emancipation of the slaves in the British colonies, mostly plantation workers on the sugar islands of the West Indies. Wilberforce had grown old in the fight. He died in 1833 as the emancipation bill was making its way through Parliament, but he lived long enough to know it would be enacted. An interesting feature of the law being passed was the provision that the slaveholders should be compensated by the British government for the loss of their slaves. "Thank God," said the aged Wilberforce[7] a few days before his death, "that I should have lived to witness a day in which England is willing to give twenty millions sterling for the abolition of Slavery."

Opponents of the bill and the faint hearted promised dire calamities when the law became effective on the first of August the following year (1834). Military reinforcements were sent to the Caribbean to maintain order, but they were never needed. As Ralph Waldo Emerson tells us, writing ten years later, everything went off smoothly:

> On the night of the 31st of July, they met everywhere at their churches and chapels, and at midnight, when the clock struck twelve, on their knees, the silent, weeping assembly became men; they rose and embraced each other; they cried, they sang, they prayed, they were wild with joy, but there was no riot. . . . The first of August came on Friday, and a release was proclaimed from all work until the next Monday. The day was chiefly spent by the great mass of the negroes in the churches and chapels. The clergy and missionaries throughout the island were actively engaged, seizing the opportunities to enlighten the people on all the duties and responsibilities of their new relation, and urging them to the attainment of that higher liberty with which Christ maketh his children free.[8]

Good Works and Laissez Faire

The reformers who abolished slavery throughout the British Empire are a fascinating group, both for what they did and for what they believed. It is standard socialist doctrine that the men who made the Industrial Revolution in England, the laissez-faire

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economists and practical businessmen from the time of Adam Smith through the reign of Queen Victoria, were a money-grabbing lot devoid of compassion and "social concern" (to use the contemporary jargon). No doubt part of them fit the stereotype perfectly; but there were many others who were Christian gentlemen, in the best sense of that much abused term, and used their wealth and influence for the good of mankind.

A recent writer, Robert Langbaum,[9] has prefaced his book on the Victorian Age with an interesting contrast between the men who pushed reform in England, including the abolition of slavery, in the decades before and after 1800, and their grandchildren who belonged to the Fabian Society a century later and laid the foundations for the British welfare state as instituted by the Labor government of our own time. The former group, William Wilberforce, his relatives and friends, were devout Christians who used their political power – they had an influence out of all proportion to their numbers – to promote worthy causes. They also invested large sums of their own money in private charity. This "power elite," derisively nicknamed the "Clapham Sect" or the "Saints" by their political enemies, believed, said Langbaum, "in piety, reform of church and state, moral action and laissez-faire economics." Their posterity a hundred years later (the famous "Bloomsbury Circle," including John Maynard Keynes) "disbelieved in religion and moral action, and did believe in government regulation or ownership of industry. . . ." Thus, too briefly, is described "the century-long migration of English liberal intellectuals from Clapham to Bloomsbury," from a Christian free enterprise philosophy to a secular socialism.

It should be remembered that to speak of the Bloomsbury Circle as the children of the Clapham Sect is no figure of speech; they came of the same distinguished families and were in fact the grandchildren and great-grandchildren of the Evangelicals who had been Wesley's disciples and who had successfully promoted so many reforms. Yet today, a multitude of Americans consider socialism as the moral and ethical alternative and laissez-faire capitalism as utterly unchristian. Obviously, someone is confused, then or now; or the question is irrelevant.

Protectionism Abandoned

What makes the problem so fascinating is that the next British attempt to promote the abolition of slavery, beyond continuing antislave-trade naval patrol, was

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to no small degree the work of that arch free trader and free enterpriser, John Bright of the Anti-Corn-Law-League. Shortly after the last slaves were liberated in the colonies, a new propaganda campaign was launched in England to abolish protective tariffs. We don't commonly associate slavery and tariffs, but Frederic Bastiat, a French contemporary of Bright, connects the two in a famous passage, discussing the problems of the United States:

> . . . look at the United States (in 1850). There is no country in the world where the law is kept more within its proper domain: the protection of every person's liberty and property. As a consequence of this, there appears to be no country in the world where the social order rests on a firmer foundation. But even in the United States, there are two issues – and only two – that have always endangered the public peace.
>
> What are these two issues? They are slavery and tariffs. These are the only two issues where, contrary to the general spirit of the republic of the United States, law has assumed the character of a plunderer.
>
> Slavery is a violation, by law, of liberty. The protective tariff is a violation, by law, of property.
>
> It is a most remarkable fact that this double *legal crime* – a sorrowful inheritance from the Old World – should be the only issue which can, and perhaps will, lead to the ruin of the Union. It is indeed impossible to imagine, at the very heart of a society, a more astounding fact than this: The law has come to be an instrument of injustice. And if this fact brings terrible consequences to the United States – where the proper purpose of the law has been perverted only in the instances of slavery and tariffs – what must be the consequences in Europe, where the perversion of the law is a principle; a system?[10]

Certainly Bastiat's words have been prophetic. Slavery nearly wrecked our nation in the 1860's and the Smoot-Hawley Tariff of 1930, following the Crash of '29, intensified the Depression and precipitated an international trade war that helped to bring on World War II. And the problem is still with us. John Bright did not help us rid ourselves of our tariffs, although he did do much to promote free trade for Britain in 1846 and thereafter; but he made a real contribution to our attempt to free the slaves at the time of our Civil War. We owe him much.

John Bright's Role

John Bright, a prominent member of a new generation of reformers that grew up with the passing of the Clapham Sect, makes an interesting character study. He was an earnest Christian, a humble Quaker who never outgrew the

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little Meeting House which he had attended in his childhood. He was a self-made man, a successful cotton manufacturer from the Manchester area and long a member of Parliament; but he took his faith into his business and politics, and refused to compartmentalize his religion. When Bright[11] found free trade in the Scriptures and proclaimed, "As a nation of Bible Christians, we ought to realize that trade should be as free as the winds of heaven," the cynical could smirk that he stood to gain by the Repeal of the Corn Laws and free trade in general; to them he was just using religion to bolster his economic position. The criticism was not fair. It is true that when he promoted the repeal of the Corn Laws, he was a national figure and was exceedingly popular; but when he bitterly opposed the Crimean War a decade later, England turned violently against him. Still, he did not adjust his conscience to the whims of the passing moment.

The American Civil War was the real test of Bright's character. He abhorred war, although he was not a complete pacifist; he abhorred slavery also, but he was a cotton manufacturer and was well aware of the dependence of the Manchester area on Southern cotton. His good friend Richard Cobden, with whom he had labored so mightily in the days of the Corn Law agitation, tended to favor the Southern free traders as against Northern protectionists; but Bright convinced him there were more important principles at stake. Many Englishmen openly symphathized with the South and there were enough incidents like the Trent Affair (the capture by a Northern naval commander of a British ship carrying a couple of Southern agents) to bring the North and England to the brink of war.

On the Side of Freedom

Queen Victoria's husband, Prince Albert, is credited with having helped to avert a conflict in this case, but he was fatally ill at the time and died soon afterward. It was John Bright who remained the constant friend of Mr. Lincoln's government throughout the war, although his self-interest as a textile manufacturer would have inclined him in the opposite direction. The American people expressed their gratitude, too, in a number of ways. Perhaps the most interesting tribute was contained in an address given by a distinguished American to a group of English school children after the war. He told them that, of course, American school children loved George Washington first of

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all, then Abraham Lincoln, but John Bright[12] came third "because he is the friend of our country."

This friendship should not be minimized because it is quite obvious that the North had about all it could handle in defeating the South without European intervention. Had Britain gone to the aid of the Confederacy, it would no doubt have changed the course of history. And it was the English conscience, the deep-seated opposition to slavery throughout the nation, that tipped the balance in favor of the North. Once again the English were prepared to pay for their convictions, this time in widespread unemployment, particularly in the cotton mills, and economic distress for the nation. But freedom is more important than prosperity, when that is the choice.

Conscience and Laissez Faire

The freedom story is fascinating, but one can read it as a human interest story and still miss the point. Present-day scholars who know of the mighty labors of a couple or three generations of free enterprisers who sought to rid the world of the blight of slavery long ago, tend to feel that the English abolitionists were inconsistent. If laissez faire means noninterference by government in business, then why should the slave business have been singled out for destruction. Of course, those who raise such questions today are not defending slavery but questioning the logic of laissez faire.

This is an exceedingly important consideration because it reveals a total lack of comprehension by our contemporaries of the motives and philosophy of those engaged in that earlier effort. If Wilberforce, Bright, and their associates had been anarchists, the point would be well taken; then all they could have done consistently would have been to wait for slavery to wither away of itself as the Soviet government is supposed to do some day. While it is true that there are and have been laissez-faire anarchists over the years, these abolitionists cannot be so classified; nor was Adam Smith, the father of the free enterprise tradition, out to abolish government.

Smith did want to do away with the innumerable and senseless mercantilist restrictions so characteristic of his age, because he was certain that they reduced productivity (which they were intended to do) and hence resulted in needless poverty and suffering. But Smith's[13] "obvious and simple system of natural liberty" was based on "the laws of justice" (the Mor-

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al Law); he was no anarchist. He believed, as did many of his contemporaries, in a natural harmonious order; that God had so arranged His Creation that "all things work together for good," if we but obey Him (Romans 8:28). If this is true, the endless attempts to rig the market and rook the neighbors were unnecessary, immoral, and a cause of needless conflict. As Bastiat[14] asked, "How could God have willed that men should attain prosperity only through injustice and war?"

Mercantilism, ancient and modern, is based on the "frightful blasphemy," that God has so ordered the world that the right is impractical, common decency is suicidal, and the oppression of the weak and helpless is good business. This view Adam Smith and his followers emphatically rejected on philosophical and ethical grounds. While they might disagree as to how much government is necessary and appropriate, they did agree that slavery is contrary to the Higher Law and should be abolished. To them it was bad business and worse morals.

Christian Gentlemen

It may seem preposterous to a multitude of people to speak of the laissez-faire economists and practical businessmen of the Industrial Revolution as Christian gentlemen much concerned with reform. According to the popular notion, as T. S. Ashton[15] tells us, ". . . the course of English history since about the year 1760 to the setting-up of the welfare state in 1945 was marked by little but toil and sweat and oppression." There was some of this certainly, but this is only part of the story. A contemporary historian, Earle E. Cairns,[16] writing of Wilberforce and the Clapham Sect in the decades before and after 1800, insists that they accomplished more of a constructive nature than any reform movement in history and there were others who followed them who accomplished much also.

Then why the very bad reputation of this era? Certainly few periods of history are more notorious than the early Industrial Revolution. Generations of Socialists blackened the good name of these men who did have their failings and this age which did have its problems. Some of their bitterest critics were their own grandchildren, the Bloomsbury Circle. Today, sadder and wiser, we realize that we could certainly learn much from them, if we would forget our prejudices long enough to examine the record. Indeed, a contemporary scholar, Karl Polanyi,[17] tell us that the four great institutions of the nineteenth century – the balance of power, the

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gold standard, the market economy and limited government – "produced an unheard-of material welfare" and also "a phenomenon unheard of in the annals of Western civilization, namely a hundred years' peace" (1815 to 1914). He is, of course, aware of the Crimean War and the Franco-Prussian War, for instance, which he regards with some reason as fairly minor disturbances (since he is speaking from a European point of view, the American Civil War doesn't count). It should be added also that Polanyi is a Socialist, according to his own testimony, so his kind remarks about Capitalism take on additional significance.

Perhaps we have come full circle back to our beginnings, as one Englishman wrote recently: "In our own unpleasant century we are mostly displaced persons, and many feel tempted to take flight into the nineteenth as into a promised land. . . ." Retreating to the past is clearly impossible, if it were desirable, but we can face the future with courage, as did our Fathers, and take as our motto John Bright's slogan: "In working out our political problem, we should take for our foundation that which recommends itself to our conscience as just and moral."

• FOOTNOTES •

[1] Michael Curtis (ed.) *The Great Political Theories*, Vol. I, from Plato and Aristotle to Locke and Montesquieu, pp. 296-302.

[2] Adam Smith, *Wealth of Nations* (Modern Library edition), p. 365.

[3] Garet Garrett, *The American Story*, p. 87.

[4] Lord Byron, "On the Castle of Chillon."

[5] Harvey Cox, *The Secular City*, p. 61.

[6] Edward C. P. Lascelles, *Granville Sharp and the Freedom of Slaves in England*, p. 27.

[7] Sir Reginald Coupland, *Wilberforce, a Narrative*, pp. 516-517.

[8] Emerson's *Essays* (Modern Library edition), pp. 839-840.

[9] Robert Langbaum, *The Victorian Age*, pp. 9-10.

[10] Frederic Bastiat, *The Law*, pp. 18-19.

[11] Asa Briggs, *Victorian People*, p. 207.

[12] George Barnett Smith, *The Life and Speeches of John Bright, M.P.*, Vol. 2, pp. 113-114.

[13] Adam Smith, p. 651.

[14] Frederic Bastiat, *Economic Sophisms*, p. 88.

[15] F. A. Hayek (ed.), *Capitalism and the Historians*, p. 32.

[16] Earle E. Cairns, *Saints and Society*, p. 43.

[17] Karl Polanyi, *The Great Transformation*, pp. 3-5.

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Pollution and Property

OSCAR W. COOLEY

IN ALL THE WELTER of worry about "the environment," seldom is property and its relevance to pollution mentioned.

To own property is to have a measure of control over a definable portion of one's environment. If one has property, he has a degree of power to prevent his environment from being despoiled. Indeed, the purpose of property, it seems, is to enable man, the owner, to bring environment under control and make it yield up a maximum of satisfactions.

It has often been noted that people pollute least – that is, take best care of – that part of the environment which they themselves own. The householder is more solicitous of the home he owns than the renter is of the house in which he is but a temporary tenant. A family which, on a picnic, might leave litter in a public park and beer cans by the roadside will not dump waste on their own front lawn.

Is it possible, one might ask, for an owner to "pollute" his own property? To the extent that it is his to utilize as he sees fit, whatever he does with it will be, in his view, its best use. And when a resource is being put to its best use, it can hardly be said to be "polluted."

If I deliberately pipe sewage into a pond on my own land, presumably I consider using the pond as a cesspool to be its optimum use. Hence, there is no abuse, no pollution. If however, either purposely or inadvertently I allow my sewage to flow into a neighbor's pond, against his will,

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I am without question polluting. I am lowering the value of his property. The obvious remedy is for him to assert his property right and ask me to cease; if I do not, he may ask the public authorities, a major function of which is to protect his and everyone's property rights, to enjoin my action. This is the normal way in which property is protected in a civilized society.

It does not follow that in the case cited the neighbor would, invariably, bring an action against the polluter of his pond. This depends, on the one hand, on how much damage he is suffering or about to suffer from the pollution, and on the other, on how much it will cost him to get the matter corrected. If the damage is trivial, he will not press the matter; or if he does, his case probably will be dismissed. Even if the damage is considerable, the cost of proving it might be greater, in which case he would endure it as an unavoidable "neighborhood effect" or minor externality.

A Private Lake Erie?

If, now, the pond is Lake Erie and has no specific owner, but is said to be "social property" or "in the public domain," people will take a quite different attitude. To pollute it is to injure well-nigh everyone in general but no one in particular. "Everyone" does not go to court and seek injunction. Hence, it seems one may pollute this "pond" with impunity, there being no owner to object. And so it becomes a public sewer.

As such, it is at first very useful, for the dilution is so great that no harm is evident; but as the sewage content of the water increases, injury is done to those who would drink the water, to would-be bathers, to fishermen whose catch dwindles, to hunters of waterfowl, and even to people who live along the banks. None of them takes action, however, mainly because he does not consider that he owns that body of water. He does not consider that it is his to utilize and that he can therefore exclude – and enlist the State to help him exclude – all others from its use. In short, Lake Erie is unlike the farm pond, it is not private property. That is why it is polluted. It is public domain, and the public domain easily becomes a public dump.

If, now, Lake Erie were converted into private property – let us assume it becomes the recognized property of the "Lake Erie Company," which proves itself the legal heir of those who bought it from the aborigines – we would have a quite different situation. The company would want to maximize income from the lake, as from

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a tract of owned farm land, residential property, forest, coal-bearing land, or other asset. It might do so by selling rights to fish, to sail, to bathe, to transport passengers or freight, and by selling water to cities. It would undoubtedly improve its property by stocking with desirable species of fish, deepening ship channels, improving beaches, and so forth.

The owner would naturally strive to conserve its lake property in the most practical ways possible, so that it would reap a generous income, both now and in the future. At the moment, it might pay to sell to the cities along the lake the right to use it as a sewer; but this would threaten the future income to be gleaned year after year from the fishermen, bathers, shippers, boaters, drinkers, and other potential users. Only if the cities would pay the company a sum greater than the present value of all the streams of anticipated future income would the lake be turned into a sewer; and that, one may surmise, would cost such cities as Cleveland and Toledo a pretty penny.

In all the voluminous literature of conservation,[1] seldom is it pointed out that only under private ownership are the resources of the earth most fully conserved, since it is the private owner who has the keenest incentive to maximize his returns *in future* as well as at present. This is because the private owner is conscious of having sacrificed to get his property, a fact which has indelibly impressed upon him that it is a scarce good, to be carefully husbanded. Public property, on the other hand, is regarded by the public as a "free good," unlimited in amount both now and forever. Since it belongs to everyone, no one person can prevent others from using it. Hence, each reasons that he had better get his while the getting is good, that is, now. The result, far from conservation, is rapid exploitation and waste. The prevention of pollution is, of course, but a special case of the general principle of conservation.

Correction by Law

Environmentalists are wont to visualize land, water and air being protected and conserved by police action. Laws will be enacted – wise laws, enacted by socially minded legislators who somehow are gifted with the knowledge of just how each natural resource should be utilized to achieve the greatest good for the greatest number, both now and in the future. These laws will set the private, profit-seeking,

[1] An exception is *Exchange and Production: Theory in Use* by Alchian and Allen (Belmont, Calif.: Wadsworth, 1969) p. 563.

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polluting entrepreneur back on his heels. Once such laws are passed and enforced, the problem of pollution will melt away. This is the politician's solution to what is essentially an economic problem.

Undoubtedly, changes in the laws are needed. Certainly we need changes which will spell out and define the rights of property owners more clearly and specifically than has been done up to the present. For example, just what are the property rights in a flowing stream? In a body of shifting air? In the ocean deep? In the fish that swim, birds that fly, animals that wander now largely at will about the environment? The present laws of property are concerned mainly with the solid land, but this constitutes only about one-fourth of the earth's surface and represents an even smaller fraction of her resources.

Gordon Tullock in his booklet, *The Fisheries . . . Some Radical Proposals* (Columbia, S. C.: Univ. of South Carolina) now out of print, foresees the privatizing of the ocean fisheries. Once the ocean, at least the shallower parts of it, is divided into privately owned plots – and Tullock suggests in some detail how this might be done – it will be "farmed" much more productively than it is at present, he believes.

There was a time when man allowed the land to produce what it would – animals, birds, trees, fruits – and he hunted the product. But it was a laborious and hazardous business, and one may imagine every family ranging over many square miles to bag a living. Then, man learned to domesticate animals and to till the soil and grow crops. This vastly increased his production. But as to fish and other sea wealth, both organic and inorganic, we are still largely in the hunter stage. We have harnessed only a small fraction of the earth's resources, yet we are already obsessed with the threat of over-population.

The Origin of Property Rights

As man evolved from hunter to herdsman to tiller, he devised property in land, for only as each could exercise control over his little corner of the environment could he be sure of reaping where he had sown. As Harold Demsetz[2] puts is: "Property rights arise when it becomes economic for those affected by externalities to internalize benefits and costs." He cites Eleanor Leacock's study of the Indians of eastern Canada. In early days, when they hunted merely for food and a few furs for themselves, conservation of wild-

[2] In "Toward a Theory of Property Rights," *American Economic Review*, May 1967.

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life did not pay, and hence they hunted far and wide, recognizing no property in land. But when the white men came and the fur trade became profitable, hunting lands and even individual beaver houses were allotted to families. In the language of economics, they internalized external costs and benefits. The cattle grazing industry acted similarly when the cattlemen discontinued the "free range" and fenced their individual holdings.

Man has been slow to define property rights in water and air, not only because of its seeming inexhaustibility, but also because of its fluidity. It is recognized, however, that an owner has a right to pure water on his land, even though it flows from his neighbor's land. In like manner, a householder has a property right to pure air over his house and lot, for what would the latter be worth if overlaid with a vacuum? The growing insistence that power plants, steel mills, and the like cease polluting their neighbors' air is a recognition of this right.

To pollute my neighbors' land, air, or water is to trespass on his property. The rights of property need to be more sharply delineated and respect for them intensified. For maximum protection and conservation, resources now said to be in the public domain should be reassigned to the private domain.

Not the socialists but the capitalists have the solution to pollution!

IDEAS ON LIBERTY

Social Reforms

SOCIAL REFORMS which require the citizen to depend too directly on his government for food, occupation, employment, crops, clothes, and homes, compel abrogation or abandonment of constitutions and bills of rights . . . . The false laudation of the strength of these instruments naturally creates an impression that they constitute an unbreakable barrier against oppression. But nothing could be farther from the truth. They are futile in every respect if the general principles of government are not observed. They have value only in an economic structure of free enterprise and private property.

From "Liberals" and the Constitution by HENRY PLOWDEEPER

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CLARENCE B. CARSON

THE FOUNDING OF THE AMERICAN REPUBLIC

11

The War for Independence

IT WAS ONE THING to declare independence; it was another to acquire it. It was one thing to rebel against British rule; it was another to bring off a successful revolution. It was one thing to make war; it was another to win it. It was one thing to deny the old authority; it was another to establish a new rule. The pledge which closes the Declaration was one to be taken seriously; those who signed it committed their "Lives," their "Fortunes," and their "sacred Honor." True, those who gathered around to sign the document engaged in some bravado. John Hancock scrawled his name large enough that the king could read it without his spectacles. When reproached with the fact that there were enough people by the same name in his state to assure him virtual anonymity, Charles Carroll from Maryland added "of Carrollton" to his signature, noting that there was only one man who would fit that description. But the task that lay ahead required endurance and tenacity to match the decisiveness just exercised.

The difficulties confronting the Patriots – for so those who favored independence have been most

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commonly called – were numerous and resistant to resolution. One such difficulty is frequently ignored by revolutionists, though failure to deal effectively with it thwarts the purposes for revolt; for the American colonists it was to see that the revolt against England did not turn into a revolt against all authority. The usual course of revolution is for a breakdown of authority to follow the repudiation of the old authority. When this happens, there ensues an often brutal contest for power, accompanied by the disintegration of society, bloodletting, and the development of well-nigh irreconcilable divisions among the people. Power is usually consolidated once again and order restored by an autocratic rule. The object for the original revolt, however noble, is commonly lost from sight as the yearning for order supersedes the quest for the good society.

The deepest source of the disintegrative impact of revolution no doubt lies in the human condition itself. What man is there who would not like a fresh start, who would not like to be free of his debts, who would not like to be relieved of the tangle of duties and obligations in which he finds himself, who would not relish the opportunity for starting over. Revolution appears to offer such an inviting prospect. As he made his way home from the First Continental Congress, John Adams encountered a man fired by emotions such as these. The man said: "Oh! Mr. Adams, what great things have you and your colleagues done for us! We can never be grateful enough to you. There are no courts of justice now in this province, and I hope there never will be another."[1]

John Adams understood that this was not a laudable opinion, and there were many others who intended to prevent the dissolution that would accompany the domination of events by men holding such opinions. The Americans were generally successful in avoiding many of the pitfalls of revolution. But, by the refusing to arouse the populace by holding forth visions of beatitude that would follow from their efforts, they also forfeited fanatical zeal in their followers. The American Patriots had quite limited means for achieving their limited ends.

Divided Opinion in America

A more obvious difficulty at the time was posed by the Loyalists – those who remained loyal to the king and to England. So long as the colonies retained their connection with Britain, most Americans joined in the opposition to British policies during the period of rising discontent. They sometimes dif-

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fered over tactics and as to the correct theoretical position on the constitution. But once the decision for independence was made, some goodly number of people retained their loyalty to Britain. These threatened to turn the war into a domestic civil war as well as a war against Britain.

How many Loyalists there were was in doubt at the time and has remained so ever since. Those prosecuting the war in Britain wanted to believe that Americans in general retained their loyalty, especially that the sober and substantial inhabitants did. Hence, they were favorably disposed to exaggerated acounts of their numbers. Such a view made sense of the idea of subduing the "rebels," for after such a conquest Britain still might rule America if a substantial portion of the population was loyal. Moreover, British armies were continually being encouraged to come to this or that province on the grounds that Loyalists would turn out to support them in great number. The extent of loyalism has been revived as an important historical question in the twentieth century by those attempting to make a Marxist or class-struggle interpretation of American origins. These historians have resurrected what was once the British view for reasons quite different than those that would have interested King George III. On this class-struggle interpretation, men of wealth and position in America were usually Loyalists, and the thrust for revolt came from the lower classes.

This interpretation is not substantiated by the facts. A modern historian describes the social status of the Loyalists in this way: "Some came from quasi-aristocratic families, like the Fenwicks of South Carolina, and others were the humblest folk. They were rich, like Joseph Galloway of Pennsylvania, and they were poor; they were large landowners, and they were middling and small men of property; they stood behind counters, and they possessed hands unwrinkled by trade or toil. . . . Truth to tell, the Loyalists were of every station and every occupation."[2] He goes on to point out that Anglican clergymen and other officials dependent upon Britain for appointment or livelihood were likely to remain loyal. He also notes that some men of conspicuous wealth were among the Loyalists,[3] a point that is offset by the fact that there were prosperous men among the Patriots as well.

Textbook lore has it that the population was divided in this fashion: one-third Patriots, one-third Loyalists, and one-third neutrals. About the only thing to commend this estimate is that it is a

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formula easily remembered by undergraduates for test purposes. Since no census was ever taken to determine the number of Loyalists and Patriots, most evidence of numbers is indirect. The most critical of such evidence indicates that the Patriots generally preponderated over the Loyalists. Loyalists were able to achieve military successes only in conjunction with British armies. They could not even hold territory gained by the British. Once the main army moved on, Patriot militia usually swarmed over the Loyalists. The following estimate of Loyalist strength may be very near the mark: "In New England they may have been scarcely a tenth of the population; in the South a quarter or a third; but in the Middle colonies including New York perhaps nearly a half."[4]

There were, then, Loyalists in considerable number in America after the Declaration of Independence. They did not, however, succeed in turning the conflict into a fullfledged civil war. They were a threat to internal security; they offered encouragement to Britain to continue the war; they hampered the mustering of the resources of the states; and they attempted to undermine the war effort. It is not surprising, then, that the Patriots dealt with them ferociously when they encountered them in battle or that they were subject to persecution when they were discovered.

Wartime Problems

The leaders of the revolt had difficulty enough without civil war. They had to lead by way of makeshift governments during most of the war. The colonial governments were no more, once independence was declared. Indeed, they had already been replaced with provincial congresses or legislatures before that event in most states. They subsisted for some time without formal constitutions, and their exercise of authority smacked of extra-legality, to put the best face on it. Though the states were faced with the crisis of prosecuting a war, they were under the necessity of moving carefully in order to carry as many people with them as possible. The states were hardly united, and their war effort was plagued by the fact that each state tended to go its own way. The only union government which existed from 1775 into 1781 was that provided by the Second Continental Congress. It had no constitution, nor any authority except that which derived from the states. It was not a government in the usual sense of the word, though it attempted to perform the diplomatic and military functions of one.

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The most perplexing difficulties, however, were military and financial. To confront the most powerful navy in the world, the states had only a few ships that could be called warships; most of the damage they were able to do against the British was done by privateers which depended upon speed rather than armor. The armies should be called occasional rather than regular or standing. True, Congress authorized a Continental Army, made requisitions on the states for men and supplies, appointed generals, and undertook the direction of campaigns. There was a Continental Army from the time of its formation until the end of the war; but at times – usually in winter – it dwindled to the point that it more nearly resembled a party than an army. When some region was threatened, the army could be fleshed out with numerous increments of militia. The British did not usually conduct winter campaigns, so that an occasional army was nearly enough – *for defensive purposes.*

The Continental forces, during most of the war, however, were not sufficient to go on the offensive. The army frequently lacked most of the things which make an army: discipline, effective officers for smaller units, uniforms, blankets, tents, firewood, food, adequate shot and powder, sufficient muskets or rifles and bayonets, and continuity. The initial enlistments were for one year only: only long enough, as Washington observed, for them to absorb some training and come under discipline before their officers had to begin to treat them with great deference in the hope that they would re-enlist. The militia were undependable and unpredictable in combat in the open field; they were of greatest use when they outnumbered the enemy.

Financing was so ineptly managed and the consequences were so important both to the conduct of the war and the founding of the Republic that it will receive treatment in a separate chapter.

Advantages of the Patriots

It is appropriate to focus attention on the difficulties confronting the Americans in the War for Independence. It enables us to see highlighted the sacrifices, bravery, and tenacity of those who did persevere to victory. But it is appropriate also to note that the Patriots had advantages as well as difficulties. Americans were fighting, usually, on their own soil. They had the potentiality of supplying many of their wants at home. They did not have to conquer Britain, only to drive her forces from the states. They had much greater prospects of gaining friends among European nations than did Brit-

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ain, for Britain's successes in the Seven Year's War had been at the expense of other major powers. The American Patriots had a cause, too, which much outranked that of their enemy. They were fighting for liberty and independence; the best that the British could do was appeal to monarchy, empire, and tradition, and their case for tradition was flawed by the innovations which had provoked colonial resistance.

Even the method of assembling and maintaining armies was more appropriate than is often appreciated. It is true, of course, that the army should have been better fed, clothed, shod, munitioned, and housed. A strong case can be made, too, that if Patriot commanders had had larger numbers of seasoned and disciplined troops they might well have won decisive victories long before they did. But it is quite possible that an army composed of men with long-term enlistments in resplendent uniforms, who were extensions of the wills of their officers and who had garnered a series of brilliant victories, would have endangered American liberty. Many thoughtful Americans feared just the sort of army wanted by any man confronted with the military tasks before him. Congress was loathe to encourage long enlistments. They feared a standing army, as might be expected of men of British descent. Americans were conscious not only of British history but of Roman history, and of the threat posed by successful generals. America did avoid the shoal of military dictatorship following the revolution, and a plausible reason why is that there was no army with which anyone inclined to such exploits could be confident of accomplishing them.

Outstanding Leadership

The Americans had another advantage, too; they had George Washington as commander-in-chief. Whether he was a great tactician or not is a question that can be left to military historians. But there should be no doubt that he had that peculiar combination of qualities of a man to whom others turn in difficult situations. He was dignified, tenacious, farsighted, disciplined, correct, and a gentleman. His personal bravery was of the sort that is called fearless among soldiers and sometimes foolhardy for a general. More than once he rallied his troops by exposing himself to enemy bullets. A lesser man than he would have committed and lost several armies, if he could have assembled that many. Washington was sorely tempted to risk his army to rescue and redeem his reputation. Yet he resisted this temptation time and

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again, believing that it was more important to keep an army in the field than hazard the American cause on the chance of gaining personal glory. He said after being driven from Long Island: "We should on all occasions avoid a general action, or put anything to the risk, unless compelled by a necessity into which we ought never to be drawn."[5] He persevered, persevered when beset by critics in Congress and the states, by the shortages and inadequacies of his army, by superior armies, by a war of attrition in the later years, and by mutiny of some of his forces. He had not only to direct his armies against enemy forces that frequently outnumbered his, were better equipped, better disciplined, and better supported but also to keep up a continual correspondence with Congress and with state officials to gain support and to get men and supplies. Small wonder that he often longed to return to Mt. Vernon and pursue his own affairs. Yet he persevered for more than eight years, from 1775 to 1783.

There were, of course, other generals and officers whose leadership and ability contributed to the American cause. Among them would be listed: Benedict Arnold (until his betrayal), Henry Knox, Anthony Wayne, Nathanael Greene, and Daniel Morgan. The Continental Army benefited much, too, from foreign volunteers, notably, Lafayette, De Kalb, and Von Steuben. And there were private soldiers, whose names do not adorn the pages of books, but who endured untold misery to remain with the Continental Army and provide the troops without which generals are of no account.

The British Forces

On paper, the British were so far superior to the Americans that no contest might have been expected. They had the most powerful navy in the world. They had an established government, the recognition of foreign powers, centralized taxation, established credit, a much larger population on which to draw, much greater productive capacity, and an existing and disciplined army, though it was small. They hired thousands of Germans to supplement their own forces. Moreover, Loyalists in America might support them.

But the task of the British was much more complex and difficult than that of the Americans. Armies had to be transported across 3,000 miles of ocean in unpredictable sailing ships. Not only that, but the army and navy had generally to be supplied from home, and this transport was frequently exposed to Patriot privateers along the thousands of miles

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of coast line of the American continent. Once their armies left the shelter of the supporting navies and moved inland, they were among a generally hostile population which rallied against them, as Generals Burgoyne and Cornwallis were to learn to their sorrow. They were always short of transport for inland maneuvers, and George Washington saw to it that very little fell into their hands. If America was divided at home, so were the British, though it did not tell much for the first couple of years.

British strategy was threefold: to isolate the continent from the rest of the world by blockade, to divide and conquer America, and to destroy Washington's army. The policy of divide and conquer had many facets: rally the Loyalists to the cause, separate the regions from one another, capture the major seaports, and so on. Patriot strategy was, above all, to keep an army in the field, and, hopefully, to drive the British from the continent. The British aimed to keep down the atrocities so as not to turn more of the American population against them; in this they were frequently thwarted by armies which plundered and raped wherever they went. Washington's armies were under strict orders not to plunder, but they did engage in confiscations to gain stores and supplies.

Hostilities broke out in Massachusetts, of course, in April of 1775, more than a year before the declaring of independence. For the remainder of the year and into the next, the bulk of the British forces were concentrated at Boston and environs. This force was under siege and cut off on land by Patriots.

The first major battle of the war took place June 17, 1775. It has gone down in history as the Battle of Bunker Hill, though, in fact, it was a battle over Breed's Hill. The Americans, some 1,200 strong built a redoubt on Breed's Hill, which the British attacked with 2,200 men against a slightly reinforced American force. The British took the hill, but at a cost of 1,000 casualties, two and a half times the losses by the Patriots. General Gage observed that he could ill afford another victory like that. Shortly afterward, Washington assumed command of the Patriot forces, and a stalemate ensued for the next several months.

Expedition Into Canada

The scene of action shifted elsewhere. For some time, Benedict Arnold, and others, had been promoting the idea of an expedition into Canada. It was hoped that such an undertaking would bring

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the Canadians in on the side of the states, would remove a haven from British forces who could from that vantage point launch an attack against the states, and would show to the British the determination of America. The plan was the more attractive because Canada was lightly defended. Congress was reluctant to authorize the expedition because there was still hope of reconciliation. Even so, permission was given for it finally.

Two armies were launched into Canada in late 1775. The main army which set out by way of Lake Champlain was initially under the command of General Philip Schuyler, but he fell ill and was replaced by the much more energetic Richard Montgomery. This army met with a series of successes by taking Forts Chambly and St. John's, followed by Montreal. The way to Quebec, the historic key to dominance of Canada, now lay open.

Meanwhile, the second army under the command of Benedict Arnold was making its way toward Quebec by a more easterly route. Arnold set out up the Kennebec river through Maine along a route the difficulties of which were only hazily grasped at the start. Arnold and his men braved rapids, unsuspected waterfalls, long overland portages, and some of the most miserable weather ever recorded to reach their destination. "So great were the hardships that officers of the two rear divisions turned back with 350 men. But the rest plunged on through a forbidding wilderness, overcoming almost incredible obstacles. Some of them became lost; some died; all who could, struggled forward. . . . After a month of desperate effort, 600 scarecrows of men straggled into a camp on the headwaters of the Chaudieré."[6] This was in early November; they reached Quebec a few days later.

On December 2, 1775, Montgomery's army joined forces with Arnold outside Quebec. Although they now had superiority in numbers over the British, they were unable to take advantage of it because Sir Guy Carleton chose to defend the city from behind its walls rather than come out into the open. An assault upon the city on December 31 failed. General Montgomery was able to get a small force within the walls, but he was killed, and Arnold's men who were supposed to make a rendezvous with Montgomery's were turned back after Arnold, who was wounded, relinquished the command. For several months, Americans continued to lay Quebec under siege, but to no avail. Superior British forces eventually arrived; though American reinforcements

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were also sent to Canada, they were driven out in 1776.

Washington vs. Howe

Early in the year of 1776, Washington succeeded in placing cannon on Dorchester Heights overlooking the British positions around Boston. Sir William Howe, now in command of the British army, judged his position to be too exposed, and in March the British abandoned Boston. Howe withdrew by sea to Halifax to await reinforcements. Meanwhile, Washington moved his army to New York in the expectation of a British attack there. It came in August. Howe drove Washington's army from Long Island, from Manhattan, and then from White Plains. It then became a near rout as the British under the field command of Cornwallis followed Washington in a retreat through New Jersey. Washington managed to halt the British advance at the Delaware River in early December. He had gathered all the boats in the vicinity to transport his army across the river; once he had the boats on the other side, he kept them there.

In any case, Howe did not follow up his advantage. He went into winter quarters in New York City, leaving much of his army spread out over New Jersey. For the Continentals, it had been a year of defeats and withdrawals. On the heels of the Canadian losses had come the ousting of Washington's army from New York. The British were now within a few miles from the capitol at Philadelphia. Washington had only the remnant of an army to oppose the military and naval might of Britain.

Howe could retire to the comforts of New York; he had victories enough to sustain him through the winter. No such pleasant option was open to Washington who was faced with the imminent dissolution of his army and, the way things were going, no prospects of another one. If the British would not attack, he must. Under the cover of darkness on Christmas night he crossed the Delaware with his army to attack the Hessian army at Trenton at daybreak. The Germans surrendered shortly after the attack began. A few days later, Washington engineered another victory at Princeton. From his base at Morristown, Washington continued to drive the British from their positions. The extent and impact of the continuation of this campaign is spelled out by Samuel Eliot Morison: "In a campaign lasting only three weeks, at a time of year when gentlemen were not supposed to fight, the military genius of America's greatest gentleman, and

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the fortitude of some five thousand of his men, had undone everything Howe accomplished, recovered the Jersies, and saved the American cause."[7]

British Occupy Philadelphia

In 1777, the British launched their great offensive aimed at dividing America and destroying the Patriot ability to resist. At the beginning of the year, the massive force of British arms was centered in New York City. Another large army was in Canada. It was placed under the tactical command of General John Burgoyne. General Howe conceived initially of the grand strategy of attacking north from New York to make a junction with an attacking force from Canada. Such a victory along the line of Lake Champlain, Lake George, and the Hudson could have cut off New England from the rest of the states. However, Howe changed his mind, decided to attack Philadelphia instead, and put to sea with that destination in mind. He did leave behind an army, of sorts, under Sir Henry Clinton, but it was insufficient to perform both its tasks of occupation and conducting a major offensive campaign.

For a good portion of the summer, Howe's destination was a mystery to Washington. The fleet was delayed first by an extended calm and then by contrary winds. Upon hearing that the fleet had been sighted to the south, Washington took the main body of his army to the vicinity of Philadelphia, leaving Burgoyne to the mercy of the New England militia, as he said. Washington tried to block Howe's advance with a smaller army at Brandywine Creek in early September, but was defeated and driven off. Howe moved on to the occupation of Philadelphia, which Congress had lately abandoned in haste. Washington's attack early in October on the main British force at Germantown failed to dislodge it. He withdrew his army to Valley Forge after this defeat.

Burgoyne's Surrender

Burgoyne had about 8,000 men at his disposal, including Loyalists and Indians. A detachment under Baron St. Leger was dispatched through the Mohawk valley from Oswego toward Albany. This detachment was dispersed by troops under Benedict Arnold. Burgoyne proceeded southward at a leisurely pace, one not entirely of his own choosing, since his path was frequently blocked by trees newly felled by Patriots. Meanwhile, militia began to assemble around a core of Continentals whose task was to stop Burgoyne. Eventually, so many militia had gathered to

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augment the Continentals under the command of General Horatio Gates that Burgoyne was outnumbered two to one. His supply route was cut by Patriots. Burgoyne's hope of being relieved from New York City did not materialize; Clinton made only a foray up the river, stopping well short of Albany. Burgoyne was cut off, surrounded; he surrendered his army intact at Saratoga on October 17, 1777. Gates was credited with the victory, but men such as John Stark and Benedict Arnold led the aggressive actions which bottled up Burgoyne.

France Enters the War

Saratoga was the first great American victory. Trenton and Princeton had been important battles for keeping up morale, but they had been won at the expense of contingents of British forces. Burgoyne surrendered one of the major armies in America at Saratoga. There had been much sympathy among Frenchmen for the American cause from the beginning. America had sent emissaries even before declaring independence. By 1777, Congress had sent to France the best known American at the time and America's premier diplomat, Benjamin Franklin. An alliance was drawn up between France and the states in February 1778, and shortly thereafter France was drawn into the war.

Not only did Saratoga bring France to the side of the American Patriots, but it showed to any of the British willing to learn the immensity of the task that lay before them. Contemporaries thought General Howe was much too cautious, even lazy and indifferent, if not a secret sympathizer with the Patriots. Historians of a later date have belabored him for unimaginative tactics. Yet Howe was the only commanding general who ever put Washington's army to rout and administered successive defeats. But to those who would see, Burgoyne's defeat showed what could well happen to any British general who committed his forces beyond naval support. Far from finding numerous Loyalists in the hinterland, Burgoyne found the countryside swarming with militia waiting to demonstrate the marksmanship of the backwoods. Nor would the continent succumb to the capture of this or that eastern port city, even if one was the capital. America had no central city; it was a land of farmers mainly who knew not the dependence, common in Europe, on a single city. There was no Rome to fall in America.

It is reasonable to conjecture that the American Patriots should have won the war in 1778. They

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now had an ally who could challenge the British fleet and overmatch the British army. The Americans had shown that they could defeat a British army. Britain was not in dire straits, but even the government was no longer so determined to win. Lord North got a bill through Parliament in February 1778 aimed at reconciliation with America. A peace commission was dispatched a little later which was authorized to offer Americans just about everything they had asked for short of independence. A command crisis developed in the British forces in 1778. Burgoyne returned home on parole and in disgrace. The Howe brothers resigned command of the army and navy in America. General Howe may have been cautious, but Henry Clinton, who replaced him, was inept. Surely, all it would have taken to drive the British from America would have been a decisive mustering of American strength.

The Winter at Valley Forge

This was not to be the case, however. Perhaps a better omen than Saratoga for the immediate future was Valley Forge. The war was to drag on for the better part of five more years, and the condition of the Continental army at Valley Forge in the winter of 1777-1778 tells us why, at least in part. One of Washington's biographers has described conditions this way:

> Thus, at the beginning of 1778, the Army was witnessing one of the strangest of races, a contest between the axes of the men building huts and the harsh wear-and-tear on the remaining garments of those who still had sufficient clothing to permit outdoor duty. . . . Although hospital huts were built early and in what was believed to be sufficient number, they soon were overcrowded with miserable men who died fast or, if they survived, received little attention. In spite of all exertion, it was the middle of January when the last of the troops were under roof. Even then they did not always have straw to take the chill from the earthen floor of their huts. Thousands had no bed covering.
>
> Food, of course, was the absolute essential — and food, more than even clothing or blankets or straw, was lacking at Valley Forge. . . . "Fire cakes" frequently were all the half-naked men had to eat in their overcrowded, smoky huts. Early in the New Year most of the regiments had to be told the Commissary could issue no provisions because it had none, none whatsoever. . . .
>
> These were desperate hours. Washington continued to watch and to warn. "A prospect now opens," he said February 17, "of absolute want such as will make it impossible to keep the Army much longer from dissolution. . . ."[8]

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Indeed, the army did seem to be on the verge of dissolution. "In December 1777, for example, over two thousand men went home. Hundreds of officers tendered their resignations; on one day alone, fifty threw up their commissions."[9] Nor are these resignations and desertions to be wondered at when the hardships of the army are contrasted with the relatively good life of civilians. It is generally believed that about the only people in America suffering privation were in the army. One historian says, "Civilians declined to forgo their pleasures merely because the army was in want; at a ball at Lancaster, Pennsylvania, in January 1778, over one hundred ladies and gentlemen gathered in all their finery to enjoy a 'cold collation with wine, punch, sweet cakes . . . , music, dancing, singing . . . ,' which lasted until four o'clock in the morning."[10] These revels were taking place only a short distance from Valley Forge.

The incongruities here account for the American impotence. The reason for their existence needs now to be explained.

• FOOTNOTES •

[1] Quoted in Merrill Jensen, *The Founding of a Nation* (New York: Oxford University Press, 1968), p. 663.

[2] John R. Alden, *The American Revolution* (New York: Harper Torchbooks, 1954), p. 85.

[3] *Ibid.*, p. 86.

[4] Piers Mackesy, *The War for America* (Cambridge: Harvard University Press, 1965), p. 36.

[5] Quoted in *ibid.*, p. 91.

[6] John R. Alden, *A History of the American Revolution* (New York: Alfred A. Knopf, 1969), pp. 203-05.

[7] Samuel E. Morison, *The Oxford History of the American People* (New York: Oxford University Press, 1965), p. 244.

[8] Douglas S. Freeman, *Washington*, abridged by Richard Harwell (New York: Scribner's, 1968), pp. 373-74.

[9] John C. Miller, *Triumph of Freedom* (Boston: Little, Brown and Co., 1948), p. 225.

[10] *Ibid.*, p. 223.

Next: The Scourge of Inflation.

IDEAS ON LIBERTY

Discipline

CALL it high training, or culture, or discipline, or high breeding, or what you will, it is only the sense of what we owe to ourselves, and it is greater and greater according to our opportunities.

From an essay by WILLIAM GRAHAM SUMNER

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THE CURE for POVERTY

HENRY HAZLITT

THE THEME of this study is the conquest of poverty, not its "abolition." Poverty can be alleviated or reduced, and in the Western world in the last two centuries it has been almost miraculously alleviated and reduced; but poverty is ultimately individual, and individual poverty can no more be "abolished" than disease or death can be abolished.

Individual or family poverty results when the "breadwinner" cannot in fact win bread; when he cannot or does not produce enough to support his family or even himself. And there will always be some human beings who will temporarily or permanently lack the ability to provide even for their own self-support. Such is the condition of all of us as young children, of many of us when we fall ill, and of most of us in extreme old age. And such is the permanent condition of some who have been struck by misfortune – the blind, the crippled, the feeble-minded. Where there are so many causes there can be no all-embracing cure.

It is fashionable to say today that "society" must solve the problem of poverty. But basically each individual – or at least each family – must solve its own problem of poverty. The overwhelming majority of families must produce more than enough for their own support if there is to be any surplus available for the remaining families that cannot or do not provide enough for their own support. Where the majority of families do not provide enough for their own support – where society as a whole does not provide enough for its own support – no "adequate relief system" is even temporarily possible. Hence "society" cannot solve the problem of poverty until the overwhelming majority of families have already solved (and in fact slightly more than solved) the problem of their own poverty.

All this is merely stating in another form the Paradox of Relief: *The richer the community, the less the need for relief, but the more it is able to provide; the poorer the*

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community, the greater the need for relief, but the less it is able to provide.

And this in turn is merely another way of pointing out that relief, or redistribution of income, voluntary or coerced, is never the true solution of poverty, but at best a makeshift, which may mask the disease and mitigate the pain, but provides no basic cure.

Moreover, government relief tends to prolong and intensify the very disease it seeks to cure. Such relief tends constantly to get out of hand. And even when it is kept within reasonable bounds it tends to reduce the incentives to work and to save, both of those who receive it and of those who are forced to pay it. It may be said, in fact, that practically every measure that governments take with the ostensible object of "helping the poor" has the long-run effect of doing the opposite. Economists have again and again been forced to point out that nearly every popular remedy for poverty merely aggravates the problem. I have analyzed in this study such false remedies as "land reform," the guaranteed income, the negative income tax, minimum-wage laws, laws to increase the power of the labor unions, opposition to labor-saving machinery, promotion of "spread-the-work" schemes, special subsidies, increased government spending, increased taxation, steeply graduated income taxes, punitive taxes on capital-gains, inheritances, and corporations, and outright socialism.

But the possible number of false remedies for poverty is infinite. Two central fallacies are common to practically all of them. One is that of looking only at the immediate effect of any proposed reform on a selected group of intended beneficiaries and of overlooking the longer and secondary effect of the reform not only on the intended beneficiaries but on everybody. The other fallacy, akin to this, is to assume that production consists of a fixed amount of goods and services, produced by a fixed amount and quality of capital providing a fixed number of "jobs." This fixed production, it is assumed, goes on more or less automatically, influenced negligibly if at all by the incentives or lack of incentives of specific producers, workers, or consumers. "The problem of production has been solved," we keep hearing, and all that is needed is a fairer "distribution."

What is disheartening about all this is that the popular ideology on all these matters shows no advance – and if anything even a retrogression – compared with what it was more than a hundred years ago. In the middle of the nineteenth century the English

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economist Nassau Senior was writing in his journal:

> It requires a long train of reasoning to show that the capital on which the miracles of civilization depend is the slow and painful creation of the economy and enterprise of the few, and of the industry of the many, and is destroyed, or driven away, or prevented from arising, by any causes which diminish or render insecure the profits of the capitalist, or deaden the activity of the laborer; and that the State, by relieving idleness, improvidence, or misconduct from the punishment, and depriving abstinence and foresight of the reward, which have been provided for them by nature, may indeed destroy wealth, but most certainly will aggravate poverty.[1]

Man throughout history has been searching for the cure for poverty, and all that time the cure has been before his eyes. Fortunately, as far at least as it applied to their actions as individuals, the majority of men instinctively recognized it – which was why they survived. That individual cure was Work and Saving. In terms of social organization, there evolved spontaneously from this, as a result of no one's conscious planning, a system of division of labor, freedom of exchange, and economic cooperation, the outlines of which hardly became apparent to our forebears until two centuries ago. That system is now known either as Free Enterprise or as Capitalism, according as men wish to honor or disparage it.

It is this system that has lifted mankind out of mass poverty. It is this system that in the last century, in the last generation, even in the last decade, has acceleratively been changing the face of the world, and has provided the masses of mankind with amenities that even kings did not possess or even imagine a few generations ago.

Because of individual misfortune and individual weaknesses, there will always be some individual poverty and even "pockets" of poverty. But in the more prosperous Western countries today, capitalism has already reduced these to a merely residual problem, which will become increasingly easy to manage, and of constantly diminishing importance, if society continues to abide in the main by capitalist principles. Capitalism in the advanced countries has already, it bears repeating, conquered *mass* poverty, as that was known throughout human history and almost everywhere, until a change began to be noticeable sometime about the middle of the eighteenth century. Capitalism will continue to eliminate mass

[1] Nassau Senior, *Journal Kept in France and Italy from 1848-52* (London: Henry S. King, 2nd ed. 1871), Vol. I, pp. 4-5.

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poverty in more and more places and to an increasingly marked extent if it is merely permitted to do so.

In a previous article ("False Remedies for Poverty," *The Freeman,* February, 1971), I explained by contrast how Capitalism performs its miracles. It turns out the tens of thousands of diverse commodities and services in the proportions in which they are socially most wanted, and it solves this incredibly complex problem through the institutions of private property, the free market, and the existence of money – through the interrelations of supply and demand, costs and prices, profits and losses. And, of course, through the force of competition. Competition will tend constantly to bring about the most economical and efficient method of production possible with existing technology – and then it will start devising a still more efficient technology. It will reduce the cost of existing production, it will improve products, it will invent or discover wholly new products, as individual producers try to think what product consumers *would* buy if it existed.

Those who are least successful in this competition will lose their original capital and be forced out of the field; those who are most successful will acquire through profits more capital to increase their production still further. So capitalist production tends constantly to be drawn into the hands of those who have shown that they can best meet the wants of the consumers.

Those who truly want to help the poor will not spend their days in organizing protest marches or relief riots, or even in repeated protestations of sympathy. Nor will their charity consist merely in giving money to the poor to be spent for immediate consumption needs. Rather will they themselves live modestly in relation to their income, save, and constantly invest their savings in sound existing or new enterprises to create not only more jobs but better-paying ones ("Private Wealth, Public Purpose," *The Freeman,* December, 1970).

The irony is that the very miracles brought about in our age by the capitalist system have given rise to expectations that keep running ahead even of the accelerating progress, and so have led to an incredibly shortsighted impatience that threatens to destroy the very system that has made the expectations possible.

If that destruction is to be prevented, education in the true causes of economic improvement must be intensified beyond anything yet attempted.

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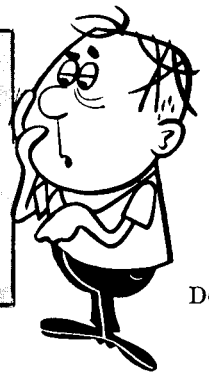
The Educational Dilemma



DONALD M. DOZER

FORMAL systems and institutions of education always represent a gift from the present generation to the next generation.

The school at all levels is a highly complicated social phenomenon. It depends, first of all, upon a controlling or governing body — a body of taxpayers in the case of public schools, a body of parents and financial donors in the case of private schools. This *supporting body* forms the principal in the entire educational complex; it is the base upon which the system rests.

To carry on the actual administration of the school, this supporting body selects a committee which is called by various names ranging from a board of education to boards of trustees or regents. Representing the original constituent body this board employs the administrators of the school, namely the principal, headmaster, chancellor, president, deans and instructors, who together constitute the implementing agent of the system and who supply the technical expertise needed to operate it.

The beneficiaries of this system are intended to be the pupils or students, who are thus enabled to be brought into contact with persons who are expected to transmit the skills, amenities, and values of the past to present and future generations and to stimulate in them enlarged visions for the future.

This basic structure prevails at all levels of the educational process, from the kindergarten through the university, and is grounded upon certain well-defined legal obligations and relationships which are the product of centuries of educational experimentation. Within this structure have appeared many delicate nuances of

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administration and elements of conflict within recent decades. Perhaps the most serious of these has been the penetration of political pressures and the resulting clash of political forces within the academic community.

It is now widely acknowledged that the great majority of our colleges and universities have lost the trust of the public. The wave of public indignation which was directed against them after the Berkeley riots in 1964 has been followed by a wave of even more ominous public revulsion. These institutions are experiencing the most serious crisis of confidence that they have faced in many decades. They are no longer respected as the quality institutions which they once were under such educator-statesmen as Charles W. Eliot and A. Lawrence Lowell of Harvard University, David Coit Gilman of Johns Hopkins, Nicholas Murray Butler of Columbia, Robert Gordon Sproul of the University of California, and James R. Angell of Yale University.

Why the Degeneration?

Why has this degeneration occurred, and what should be done about it?

One of the major casualties of the social and economic upheaval of our times is the principle of authority, or more precisely the principle of management. In industry the claims of owners and boards of directors to the exercise of management responsibilities are being repeatedly challenged. In institutions of higher learning in the United States the growing pressure for unionization of teaching faculties and staffs and for involvement of students in the councils of administration raise questions as to the *locus* of power and the right to exercise it.

It is a well-known doctrine of law that the principal in a legal transaction controls the actions of his agent within the context of their agreement and that, if the agent exceeds his authority, his unauthorized action must be regarded as *ultra vires* or of no legal effect.

A major reason for the present plight of institutions of higher learning is that in the area of education the essential relationship of the agent to his principal has been ignored. In many cases the supporting body, as we have called it above, has neither exercised nor defended its responsibility for determining the scope of the education which it is financing but has, on the contrary, allowed its agent to assume by default free-wheeling authority, with often anarchic results. Similarly the agents of the supporting body, who are expected to act as execut-

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ing officials for the supporting body and to be accountable to it, have been faithless servants. Especially in the colleges and universities which are supported by taxpayers they have yielded to the political force exerted by pressure groups of race and social class and by militant student activists. Higher education has accordingly been allowed to become a thing of whims and fads bending before the changing winds of the moment.

Taypayer Revolt

It is asking too much of human nature to expect that the principal, namely, the taxpayer, will indefinitely support an institution which, while professing to contribute to his enlightenment, in fact dedicates itself to the destruction of the society which the principal himself has formed. As a horde of militant students were thronging across the campus of one of the California universities and occupying the student center, a local businessman raised his voice in protest to the chancellor of the university. The chancellor defended his do-nothing policy saying: "We have been teaching these students for fifteen years to think for themselves, and now they are doing it!"

A lamentable misconception has been allowed to develop in higher education as to who is principal and who is agent, who calls the tune and who should dance to it, who pays the bills and who should furnish the services paid for.

Dr. Stephen J. Tonsor has stated the obvious but forgotten truism: "The university does not belong to the students; it does not belong to the faculty; it does not belong to any special pressure group in the society that happens to feel the call to revolution or a prophetic mission. The university belongs to the whole of the society or the corporate reality which brought it into existence and which sustains it."[1]

The relationship of taxpayers to educators in a publicly supported educational structure is that of employer to employee. The same relationship exists between boards of trustees of private institutions and the designated officials of those institutions.

In the complex of relationships at various levels in the educational structure it is possible to identify a producer-consumer relationship in the classroom between teacher and student. The student can either accept or reject the product, but, as the object ultimately acted upon by both the supporting body and the executing body, he is not entitled to de-

[1] "Authority, Power and the University," *New Guard*, XI, No. 6, September 1971, p. 5.

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fine the nature of the product. In other words education in the classroom cannot be successfully organized around the democratic principle.

If it is organized on the basis of this principle on the assumption of the existence of an exclusive producer-consumer relationship between teacher and taught, the corollary principle that the consumer is always right must be accepted. This is to require the teacher to become a classroom demagogue, an ingratiating salesman, and to elevate the student into the position of principal. Under these conditions education becomes a hopeless exercise and eminent professors who express unpopular views can be destroyed by immature classroom critics.

Conflict of Responsibility

In the triangle of conflict which has been accordingly created between administrators, faculty, and students, administrators, unless checked by firm directives from the supporting body, will invariably offer up the faculty as sacrifice to student demands. Commonly, administrators utilize student activism as a lever for suppressing faculty dissent.

These problems have been grievously aggravated by the superimposition of the money and power of the government in Washington upon the great majority of our institutions of higher learning, both public and private, during the past quarter century. Bold indeed – and almost unique – has been the educator who could resist these advances. Increasingly the central government itself has assumed the role of principal in the educational process, dictating standards, imposing conditions, and supplying lavish funds, amounting to as much as $23 billion in the higher-education bill for 1972. The old supporting local bodies have therefore largely abdicated their responsibility.

To the extent that local supporting bodies, whether public or private, still retain any directing authority over education, they must be recognized as principal in the operation, entitled to exert full control over the scope, purposes, and actions of the colleges and universities with whose responsibility they are entrusted. And, in accordance with the legal rights of management and the legally recognized doctrine of the relationship between principal and agent, whenever government, whether state or national, is acknowledged to be the supporting body it must be accorded the full powers of principal in the educational operation. In other words, final power cannot be assumed, either willfully or by tacit consent of the

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principal, by the agent, that is by presidents and deans and least of all by students. However distasteful this rule of conduct is, it must be respected unless the supporting body in each case decides to stand the educational system on its head.

The Fallacy in Public Education

But events in the area of higher education in the last decade have newly exposed the essential fallacy in the concept of public education. Government at all levels, being necessarily primarily political in character and having police power at its disposal, has interests which are antithetical to education in the fullest sense. All that it is interested in doing and all that it is capable of doing in the area of education is to train citizens, not educate them, in the skills of responsible citizenship. This is a very limited function, and it may be seriously doubted whether the state should involve itself even in this operation, since, by assuming this minimal training responsibility, it will inevitably undertake to impose its political will and rigidified formulas upon the citizenry.

Libertarian principles rightly condemn government control over education at all levels. Herbert Spencer pinpointed the fallacy in his *Social Statics*, published in London in 1851: "What is meant by saying that a government ought to educate the people? . . . What is the education for?" And from these questions he concluded, "Clearly to fit the people for social life – to make them good citizens. And who is to say what are good citizens? The government: there is no other judge." He asked further, "And who is to say how these good citizens may be made?" Again, his answer was, "The government: there is no other judge." Spencer's conclusion is as irresistible as it is ominous.

Jefferson's Views

The political uses of institutions of higher learning to accomplish certain predetermined national purposes were fully appreciated by Thomas Jefferson and have beeen emulated by his successors in government. At a special meeting on March 4, 1825 of the Board of Visitors of the University of Virginia, which Jefferson had founded and of which he was then serving as rector, the Board, with Jefferson present, adopted the following resolution:

> Whereas, it is the duty of this Board to the government under which it lives, and especially to that of which this University is the immediate creation, to pay especial attention to the principles of government which shall be inculcated therein, and

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to provide that none shall be inculcated which are incompatible with those on which the Constitutions of this State, and of the United States were genuinely based, . . .

Resolved, that it is the opinion of this Board that as to the general principles of liberty and the rights of man, in nature and in society, the doctrines of Locke, in his "Essay concerning the true original extent and end of civil government," and of Sidney in his "Discourses on government," may be considered as those generally approved by our fellow citizens of this, and the United States, and that on the distinctive principles of the government of our State, and of that of the United States, the best guides are to be found in 1. The Declaration of Independence, as the fundamental act of union of these States. 2. The book known by the title of "The Federalist", being an authority to which appeal is habitually made by all, and rarely declined or denied by any as evidence of the general opinion of those who framed, and of those who accepted the Constitution of the United States, on questions as to its genuine meaning. 3. The Resolutions of the General Assembly of Virginia in 1799 on the subject of the alien and sedition laws, which appeared to accord with the predominant sense of the people of the United States. 4. The valedictory address of President Washington, as conveying political lessons of peculiar value. And that in the branch of the school of law, which is to treat on the subject of civil polity, these shall be used as the text and documents of the school.[2]

As thus envisaged by Jefferson public education could be converted into a powerful apparatus to serve "good" national ends, which were thus defined in the resolution of March 1825. But is there a consensus at any one time that the current government of state or nation ought to be the principal educator? When we acknowledge it as such, we assume that government now is and will forever remain the kind of governmen which, in the judgment of a majority of citizens, it ought to be. This situation, if it exists at a single moment, may change in the next, but the powers of that government in the area of education will not automatically diminish.

The principles of a free society therefore demand that political governments at both the state and national levels shall retreat from their positions of control over institutions of higher learning. This retreat is rendered especially imperative by the admission of youths between 18 and 21 years to the franchise, which can only have the effect of intensifying the political tug-of-war in the classroom which was the major cause of the academic crisis of the

[2] Jefferson's Works, Vol. 19, pp. 459-461, Washington, 1907.

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1960's. Only the divorce of government from academic responsibility will prevent institutions of higher learning from becoming completely politicized and their inmates reduced to cogs in a totalitarianized political machine.

Education is, largely, the business of stimulating rigorous intellectual discipline. But it must limit itself to intellectual discipline and should not impose the discipline of any political party, of any religious group, or even of any national state unless it is plainly advertised as such and is therefore known to be serving necessarily as a part of the indoctrinating apparatus of that party, group, or state.

"I Was a Slumlord..."

GEORGE FRANK

I WAS A SLUMLORD. Here is how I came to be one.

I was born 69 years ago. I learned the craft (maybe the art) of cabinet-making in my native land, Hungary. This would have been my 50th year of working actively, creating in wood many things of lasting beauty. My name is well-known and well-respected in the trade.

About 20 years ago I bought a small factory building in East Harlem, at 508 East 117th Street, where I worked together with my team of 10 to 12 men. With changes, improvements and additional construction, the factory cost me about $65,000.

A few years after I bought the building, the adjoining building, No. 510, was offered to me at a bargain price because it was in poor repair. With the idea of expanding my workshop into it, or using the lot for parking, I bought it. For $12,500 in cash I became the owner of a four-family house.

The four families living in the house are all decent working people. To my knowledge they do not need and never asked for charity, public help or assistance. Yet the law forces me to give them shelter and heat at a lower price than my own cost.

For several years now my cash expenses have exceeded my income by about 25 per cent, and this without interest or amortization payments on the mortgage.

The building was in poor repair when I bought it. By now it is the favored hunting ground of every city inspector.

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The building needs a new roof, new walls, new ceilings, new plumbing, new wiring, new doors and a new heating system. It needs about $15,000 worth of repairs.

The building now has a gross income of $2,600 a year, of which I am paying for taxes and heat about $3,000.

Why didn't I apply for a hardship rent increase? My accountant told me there would be a blizzard of paperwork, and that if he was able to get me any increase, my fee to him would have taken away whatever I gained in the first two years.

So far I have been fined four times for failure to comply with orders to correct building code violations! I was summoned to court again only a few weeks ago, and I explained my predicament to the judge. He assured me of his "sympathy," fined me $40 and promised that my next fine would be much higher.

I did not go home from the court. I went straight to the offices of the local Roman Catholic Church and asked them to accept the building as a free gift. They didn't. An hour later I made the same offer to the Protestants. Again the answer was no. Next I offered the building free, without any money, to the four tenants. They didn't want it.

Okay, I will abandon the building, was my next thought. I will stop collecting rents, will not pay taxes or heat. I will let the city take over. This sounds like an easy way out, but my lawyer tells me it cannot be done without my being legally financially responsible.

So, here I am with a building assessed by the city at $21,000 – I repeat $21,000 – that I cannot give away, I cannot sell, and I cannot abandon. I am forced by law to operate it.

That is, I was. I am not any longer.

I have sold the building for $30,000.

As an extra inducement I threw into the bargain my good old factory building, which cost me close to $70,000, for nothing. In other words, I sold real estate that cost me $80,000 about 15 years ago for $30,000, to be paid without interest in six years.

With the $50,000 that I lost on the deal – and which is a major part of my life savings – I bought freedom.

At 69 I am too old to start a revolution, or to fight City Hall. On the other hand I do not like to be summoned to appear in criminal court, when my only crime is that I dared to own a building in New York.

I will badly miss my shop, where I spent 49 happy years. But . . . *I am no longer a slumlord!*

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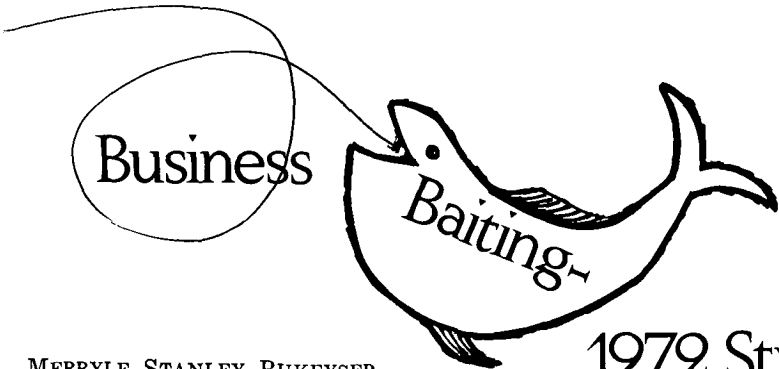

MERRYLE STANLEY RUKEYSER

IN THE NINETEEN SEVENTIES, business baiting, no less virulent than in the past, has become more subtle and sophisticated. It consists of efforts to equate technology with utter disregard for ecology. The new attack is sometimes launched in a flood of tears for consumers. Behind the new R for national economic backsliding is the runaway expansion of the welfare state which exalts leaners at the expense of producers. The new politics denigrates the system for cultivating progress through rewards and incentives. Theorists and their youthful adherents repudiate concepts of development and plump for a zero growth in population and material well-being. They stigmatize the use of electricity in labor-aiding tools of production as antisocial pollution, and blithely advocate the replacement of mechanically driven equipment with the primitive "sweat and groan" of human muscle power.

Such academic naivete brings to mind a conversation years ago with an economic minister in India. As we discussed the low level of living in that sub-continent, I asked what steps native leaders were taking to supplement the efforts of the human muscle with advanced machinery. In a patronizing manner, he called my attention to India's surplus of workers, as though it were self-evident that India, in the circumstances, had no use for "labor saving" capital goods. But what the Minister did not seem to grasp was the fact

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that continuance of crude techniques for using men as dray horses necessarily condemned Indian workers to low productivity and a meager living.

Conditions Change

Critics of business fall into the booby trap of assuming that everything is static. More than four decades ago, oil authorities were forecasting that in eight years the supply would run out. They proved to be astigmatic, perceiving only the then known reserves. They overlooked the fact that, with incentives, wildcatters would ferret out new sources of supply. And when, if, and as we consume all the known supplies of fossil fuel, the creative side of man will find substitutes in such newer technologies as atomic and solar energy. And in the process, they doubtless will achieve a measure of pollution control.

The new enthusiasts in ecology carry a good cause to unreasonable excesses. They ascribe utter irresponsibility to businessmen. They assume that corporate executives are solely concerned with "the bottom line" on the profit-and-loss statement, and the devil take the hindmost. They lack the imagination to sense the opportunities for improvement within the system. Earlier in the century, there was in some aspects of farming, for instance, and in the indiscriminate cutting down of trees in the forests, a seeming lack of concern for the future. But protests were heard; there has been measurable progress in the development of scientific agriculture in place of the primitive "mining of the soil." And in Oregon and elsewhere pioneer efforts were undertaken to avoid the denuding of forests with the new concept of tree farms with new plantings to replace cuttings.

In the American system, the guiding motto should be the line from the poet Louis Untermeyer, who wrote: "From sleek contentment, keep me free." Progress is never enough, and the operating principle of topflight business management is: "Let's seek to do better tomorrow what we appear to be doing well today." The continuing vigor of the American competitive system depends on the knowledge and courage of the elite who understand its functioning and have the means of communicating the benefits to others.

Fear of Technology

What we see today is a recurrence of the simplistic revolt in the nineteenth century of men like Samuel Butler, who decried the Industrial Revolution. In his *Erehwon* in 1872, Butler appeared as the enemy of the machine.

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In this new era ecologists are decrying technology as a polluter, ignoring the capability of technology to develop methods to minimize pollution. The alarm ringers assume that they alone want a world of pure air and pure water. They jump to the conclusion that the profit motive is the enemy of Nature. Perceptible gains will come when there is mature recognition that technology is a human tool and can be devoted to man's ends. If, by way of illustration, existing methods of burning coal or using gasoline in automobile engines pollute, then it makes sense to accelerate research and development to find ways of achieving the benefits while controlling the adverse effects. Instead of viewing the problem in the naive spirit of setting the good guys against the bad guys, it is time to recognize that leaving the environment in the form that men find it is consistent with good business. If consumers desire less pollution, they will need to understand that devices to avoid pollution are a cost of producing goods and services.

Thomas Robert Malthus, the economist, warned in 1798 of oncoming unavoidable poverty and distress on grounds that population increases by geometric ratio and the means of subsistence only by arithmetical ratio. However, his prophecy has been unfulfilled. Methods of cultivating land have not remained static. Creative minds in science, invention and engineering have developed new and better means of production, and in advanced economies a spectacularly smaller ratio of the total population than in earlier times is producing vastly more abundant quantities of food and fibers.

In light of the contemporary organized efforts to put a ceiling on economic progress, it doesn't make sense for investors, financiers and managing directors of great companies to ignore the impact of the new-style business baiting. Perhaps I can do no better than to repeat here what I said in 1938 in my pamphlet "Sell the Business as Well as the Product":

> Improving the climate of popular opinion would help to remove the barriers to a free circulation of goods and services from makers to users. . . . Misstatements and misconceptions about business have been so widely propagated that dissemination of the truth by business would be enormously helpful. Business would not have to gild the lily, for truth is much more favorable than current rumor.
>
> The country needs to escape from the tyranny of obscure, weasel words and from doctrinaire ideology. Simple arithmetic, in double-entry form, as understandable as the family budget, can be used to photograph for

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the lay mind the essential processes of business. Such new style "candid camera" shots which give glimpses behind the scenes in the business world will help to promote friendly cooperation among government, business and labor. It can make crystal clear that the unwarranted sniping at business is directed at the vital interests of millions of life insurance policy holders, owners of savings accounts, . . . and of tens of millions of individual owners of shares of American corporations.

These comments made thirty-four years ago are a reminder that business baiting is not a new phenomenon in 1972. Only the rhetoric has changed.

In the intervening years, great strides have been made in humanizing corporate reports, and today some alert companies, such as Standard Oil (N.J.), U.S. Steel and others, have used TV commercials creatively to depict the social usefulness of their enterprises. James M. Roche, who recently retired as chief executive of General Motors, has in recent months taken leadership in urging greater attention to the attacks on the premises on which free enterprise rests.

The Brave New World

Basic in this approach is objective understanding of the significance of the revolt of some articulate young people. Since they will in due course inherit the earth, their views, including their misconceptions, should not be ignored. No one questions the right to dissent, but it is important also to develop a sense of responsibility in discussing matters relating to the well-being of the people. Certainly, the "brave new world" won't be ushered in by escapists. Youths who indiscriminately reject the mature as hypocrites have little insight into the history of man. In downgrading their parents as insincere because their conduct doesn't always square with their professed code of ethics, the young tend to overlook that through the ages man has been caught in the conflict between his animal instincts and his standards of civilized procedure. It would, of course, be millenary if everyone invariably lived up to his code; but the remedy for human frailty certainly is not the rejection of standards.

Much of the venom against the Establishment springs from an emotional distaste for the competitive system, which calls upon individuals to stand up and be measured. Much loose talk glorifying the "underprivileged" and the "disadvantaged" is really quarreling with the Lord for creating man with an infinite variety of differences in aptitude, skill, moti-

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vation, and I.Q. The demagogic struggle to level down is an effort to replace divine patterns with man-made molds making all persons identical.

Much of the business baiting results from an emotional bias against competition. It takes character to be willing to be measured, and to face the grim fact that not all of us are topnotchers in every skill. And it would be a dull world indeed if we were all cast in precisely the same mold. Instead of letting destructive emotions become dominant, there should be not only a renaissance of respect for the work ethic, but also new approval for self-supporting individuals who achieve up to their own optimum in all categories of talent. The diligent hewers of wood and drawers of water deserve respect, which should not be reserved exclusively for glamorous creative artists, publicists, professional men, and chairmen of corporate boards.

The threat to economic and other achievement does not come primarily from overseas competitors, but from ill-conceived, misguided theories developed at home. No investments in growth are attractive if the "wave of the future" is for home-grown communes in place of competitive effort. Prosperity will rest on a slender reed indeed if those who vote and ratify public policy don't understand the factors that make for better living.

Slogans against the Establishment should be examined minutely to determine whether they hide rejection of self-discipline, thrift and industry. In a free society, no one is forced to work for a higher standard of living than he desires, but none who undermines the system by circulating misconceptions should go unanswered. Just as a free man is entitled to express his views, his neighbor should have the freedom to audit and appraise the other fellow's opinions. Then the validity of concepts can be tested in the unrestrained market place for ideas.

IDEAS ON LIBERTY

A Precarious Life

ANY COMMUNITY which depends for its economic growth upon the whims of succeeding Congresses is in economic jeopardy. Someday, the taxpayers might say "no," and then where is the life of that region which has become wholly dependent upon federal help?

From an address in 1955 by CLARENCE A. DAVIS
Under Secretary of the Interior

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BLOOD from TURNIPS

Notes toward an understanding of John Law's economic errors

TERRILL I. ELNIFF

ACTION is preceded by thinking. Thinking is to deliberate beforehand over future action and to reflect afterwards upon past action. Thinking and acting are inseparable. Every action is always based on a definite idea about causal relations. He who thinks a causal relation thinks a theorem. Action without thinking, practice without theory are unimaginable. The reasoning may be faulty and the theory incorrect; but thinking and theorizing are not lacking in any action. On the other hand thinking is always thinking of a potential action. Even he who thinks of a pure theory assumes that the theory is correct, i.e., that action complying with its content would result in an effect to be expected from its teachings. It is of no relevance for logic whether such action is feasible or not.

— Ludwig von Mises[1]

HERE LIES that celebrated Scotsman, that peerless mathematician who, by the rules of algebra, sent France to the Poor-house.

— *Mercure de France* on the death of John Law[2]

WHEN JOHN LAW arrived in France in 1716, he found France on the edge of bankruptcy. The government debt amounted to 2.4 billion livres plus another 590 million livres worth of *billets d'état* – outstanding royal promissory notes which were worth about one third of their face value. The deficit in the government accounts for 1715 was 78 million livres – a deficit of nine million livres more than the total revenues for that year.[3] The people were overtaxed and starving, and commerce was at a standstill.[4]

Law received a charter for his Banque Générale in 1716. It was a private operation, handling all the normal functions of a bank. It was also authorized to issue banknotes called "bank crowns," which were to be redeemable "in money of the weight and denomination of the day of issue."[5] This was sound banking policy, even though Law's

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"land bank" had an unsound money based on anticipated royal revenues and landed securities. (What Law was to do later would have destroyed even a bank with a sound money base.) Concerning Law's banking methods and policies, one historian of modern banking wrote: "If the bank had continued upon the sound basis of a bank discounting commercial paper and acting as the fiscal agent of the Treasury, France would have been under a great debt of gratitude to Law for introducing into her commercial relations the methods of the modern business world."[6] A period of recovery and great prosperity followed.

But the bank did not continue on that sound basis. Law's next step was to organize the Company of the West and combine into it several other small French trading companies, as well as negotiating with the Regent, d'Orleans, for the farming of taxes, money coinage, the tobacco monopoly, and the assumption of the entire national debt.[7] On December 27, 1718, his Banque Générale was made a public institution – the Banque Royale – and payment of notes in bank crowns (which required specie) was stopped, making the banknotes of the Banque Royale legal tender. When in May, 1719, the Company of the West was reorganized into the Company of the Indies, the speculation began and the new shares were bid up and up – and the boom was on. The price on the shares was 500 livres par, but they brought a premium of 5000 livres. By the end of November they were selling for 10,000 livres. By year's end, they brought up to 12,000 livres, and by January 6, they were up to 18,000 livres.[8] But then the tide began to turn. As the market began to drop, "the more prudent speculators were endeavoring to convert their gains into more solid property by the purchase of real estate or by shipping gold abroad."[9] On May 1, 1720, a decree from Law announced that by December 1st all shares in the company would be scaled down to 5500 livres per share and that all banknotes would be reduced fifty percent in value. A commission appointed by the Regent to examine the bank found that it had less than ten per cent assets against its three billion livres of circulating banknotes and only 49 million of that was in gold or silver.[10] On July 16th there was a run on the bank, people demanding gold or silver for their banknotes. Ten women were killed in the confusion. "Repeated riots expressed the feeling of the public that it had been deceived by financial tricks, and that the upper classes had profited at the expense of the community."[11]

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What John Law was trying to do for France has been succinctly summarized by Will Durant:

> His central conception was to increase the employment of men and materials by issuing paper money, on the credit of the state, to twice the value of the national reserves in silver, gold, and land; and by lowering the rate of interest, so encouraging businessmen to borrow money for new enterprises and methods in industry and commerce. In this way money would create business, business would increase employment and production, the national revenues and reserves would rise, more money could be issued, and the beneficient spiral would expand. If the public, instead of hoarding the precious metal, could be induced, by interest payment, to deposit its savings in a national bank, these savings could be added to the reserves, and additional currency could be issued; idle money would be put to work, and the prosperity of the country would be advanced.[12]

This was John Law's "system." Law himself summarized it even more succinctly when he said, "Money is the blood of the State and must circulate. Credit is to business what the brain is to the human body."[13] When the same idea was proposed at the beginning of the French Revolution, Jacques Necker, the minister of finance, observed that "They had only to provide themselves with a paper mill and a printing press to make the nation solvent."[14]

Two Basic Errors Led to Failure of John Law's System

Why did John Law's "system" fail? We cannot blame his failure on his motives: there is every indication that he was sincerely bent on benefiting France. Even his enemy, Duc de Saint-Simon, admitted there " was neither avarice nor roguery in his composition."[15] It is common to blame the speculators whose speculative frenzy both made and broke Law's system: "The principles upon which he had established his bank were theoretically sound; they would have made France solvent and prosperous had it not been for the incredible avidity of speculators and the extravagance of the Regent."[16] But why did they speculate? If Law's system was basically sound, why did it cause a situation in which speculation would be expedient? Why, to put the issue in its starkest form, did John Law think he could get blood out of turnips? Did the rules of algebra fail? Or did Law misapply them?

Involved in Law's system are two logically separable, though closely intertwined, economic fallacies: (1) that money must circulate, and (2) that successive

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credit expansions will lead to a spiral of economic prosperity.

The error concerning the circulation of money is one of mistaking effect for cause. Money is a medium of exchange, as Law believed, but it is also a market commodity which takes on value in exchange.[17] Therefore if people do not circulate their money, it can only be because they anticipate that it will be worth more in exchange at a later time. On the other hand, if people believe that their money will lose value in the future, they will circulate it in the present.[18] Thus circulation is neither an index of prosperity, nor of adversity: it is not wise to circulate money in a deflating market, and the circulation of money in an inflating economy is not a sign of prosperity, but rather of sickness. There are times when money must not circulate.

The second error is an extension of the first: that successive credit expansions (i.e., lowering the interest rate and loaning more money) will lead to a spiral of economic prosperity: that money can create business, which would increase production, which would result in greater tax revenues and foster a new credit expansion, which would create new business, and so on. Law's error may be pointed out with two observations: (a) If the old debt is paid off before the new credit expansion takes place, there has been no *net* gain for the economy. Consumption must be curtailed and savings invested in order to finance such progress. It is only a question of when one is going to curtail consumption and invest savings—now or later. (b) If the old debt is not paid off, and a new credit expansion is made, the *net* result is a higher price level for everyone as prices are bid up with the extra money available. This bidding up of prices, however, does not affect everyone equally:

> While the process is under way, some people enjoy the benefit of higher prices for the goods or services they sell, while the prices of the things they buy have not yet risen or have not risen to the same extent. On the other hand, there are people who are in the unhappy situation of selling commodities and services whose prices have not yet risen or not in the same degree as the prices of the goods they must buy for their daily consumption. For the former the progressive rise in prices is a boon, for the latter a calamity. Besides, the debtors are favored at the expense of the creditors.[19]

This process may continue for a longer or shorter period of time. How long it lasts depends on psychological factors. It will last as long as the people maintain con-

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fidence in the relative soundness of the money or faith in the bank or government:

Let Ludwig von Mises finish the story:

> But then finally the masses wake up. They become suddenly aware of the fact that inflation is a deliberate policy and will go on endlessly. A breakdown occurs. The crack-up boom appears. Everybody is anxious to swap his money against "real" goods, no matter whether he needs them or not, no matter how much he has to pay for them. Within a very short time, within a few weeks or even days, the things which were used as money are no longer used as media of exchange. They become scrap paper. Nobody wants to give away anything against them.[20]

The result of such a breakdown is that people return to barter or develop a new kind of money. The result in France was that the bank was closed, the legal tender was suspended, the company's contracts were cancelled, and the stock was readjusted.[21] There was an attempt to restore both public and private obligations and fortunes to the levels which existed before the inflation. But "those who had fled the country with their winnings transmuted into gold, those who could command the royal favor, and those who were able to keep their gains in hiding were the only ones who escaped."[22] David Ogg has observed that "This disaster . . . created no diminution in the amount of national wealth but only a change in its distribution."[23] But such a redistribution of wealth, of course, always means a terrible waste of resources and efficiency, and thus, while there may have been no diminution in the aggregate amount of national wealth, there was certainly an interruption of economic activity that is tantamount to a destruction of wealth. This is true because human needs and desires continue. It is impossible to interrupt hunger or to mark time in starvation while an economy recovers.

Why did John Law think he could get blood out of turnips? Because he misunderstood the nature of turnips. John Law's mathematics of compound interest were not in error; his "rules of algebra" did not fail. He simply erred in applying them to human affairs. His system was broken on the rocks of reality—one part of which is the fact that human beings place value on that which they exchange for money.

Ludwig von Mises has observed:

> The body of economic knowledge is an essential element in the structure of human civilization; it is the foundation upon which modern industrial-

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ism and all the moral, intellectual, technological, and therapeutical achievements of the last centuries have been built. It rests with men whether they will make the proper use of the rich treasure with which this knowledge provides them or whether they will leave it unused. But if they fail to take the best advantage of it and disregard its teaching and warnings, they will not annul economics; they will stamp out society and the human race.[24]

John Law failed because he had an erroneous understanding of economic concepts. Seventy years later the French Revolutionists made the same mistake, but it was not because they did not know. They chose, for political reasons, to ignore the body of truth. They did not annul it; but they very nearly stamped out society and the human race.

• FOOTNOTES •

[1] Ludwig von Mises, *Human Action; A Treatise on Economics*, 3rd revised edition. Chicago: Henry Regnery and Yale University Press, 1966, p. 177.

[2] Frederick C. Green, *Eighteenth-Century France: Six Essays*, London: J. M. Dent, 1929, p. 28.

[3] Will and Ariel Durant, *The Age of Voltaire;* A History of Civilization in Western Europe from 1715 to 1756, with Special Emphasis on the Conflict between Religion and Philosophy, New York: Simon and Schuster, 1965, p. 13.

[4] Green, *op. cit.*, p. 6.

[5] Charles A. Conant, *A History of Modern Banks of Issue*, New York: G. P. Putnam, 1927; reprinted by Augustus M. Kelley, Publishers, 1969, p. 33.

[6] *Ibid.*

[7] *Ibid.*, p. 35.

[8] *Ibid.*, p. 37.

[9] *Ibid.*, p. 38.

[10] *Ibid.*, p. 39.

[11] Durant, *op. cit.*, p. 15.

[12] *Ibid.*, p. 11.

[13] Green, *op. cit.*, p. 7.

[14] J. M. Thompson, *The French Revolution*, New York: Oxford University Press, 1966, p. 196.

[15] Durant, *op. cit.*, p. 13.

[16] *Ibid.*, p. 15.

[17] Mises, *op. cit.*, p. 401 f.

[18] *Ibid.*, p. 426 f.

[19] *Ibid.*, p. 413.

[20] *Ibid.*, p. 428

[21] Conant, *op. cit.*, p. 39.

[22] *Ibid.*, p. 40.

[23] David Ogg, *Europe of the Ancien Regime*, 1715-1783, New York: Harper and Row, 1965, p. 255.

[24] Mises, *op. cit.*, p. 885.

IDEAS ON LIBERTY

The Astonishing Similarity

WHAT CHIEFLY STRIKES today's reader is the astonishing similarity of the arguments put forward by our own contemporary inflationists to those of the inflationists of eighteenth-century France. Not less striking, of course, is the similarity in the actual consequences of paper money inflation in revolutionary France and inflation everywhere in the modern world.

From HENRY HAZLITT'S introduction to *Fiat Money Inflation in France* by Andrew Dickson White, available at $1.25 in paperback from the Foundation for Economic Education, Irvington, N.Y. 10533.

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WELFARE: HIDDEN BACKLASH

MORRIS C. SHUMIATCHER'S *Welfare: Hidden Backlash* (Toronto: McClelland and Stewart, Limited, $10.00), is one of the saddest books I have ever read. The sadness has a double focus. First, the book tells the story of what the white man, through his blindness, did to the Indian in Canada. But even more ominous (for it could carry both the white and the Indian into the same bitter trough of degradation), there is the between-the-lines story of what compulsory State welfare philosophy threatens to do to everybody in Canada who is within reach of a paternalistic legislature in Ottawa.

The white man in Canada can't say that he hasn't had plenty of warning. Mr. Shumiatcher, a lawyer who once served as assistant to the socialist premier of Saskatchewan, was once imbued with the idealistic notion that the only thing needed to abolish any wrong to an individual was a generous appropriation of money. He lived to learn that the worst thing you could do to a human being, whether white, red – or, by extension, black – was to make him a ward of government. A house cat, even though fed in a protected kitchen on choicest liver, still manages to maintain an aura of self-respect. Not so the human animal when fed by government, as Mr. Shumiatcher discovered in the days of his socialist novitiate and during his subsequent travels as a legal counsel for the Indians in western Canada.

The Queen's commissioners had

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good intentions back in the Eighteen Seventies when they embarked on the idealistic course of protecting the Indian. They thought of him as a potential white man who could become self-supporting if settled on the land. The assumption need not have been fatal if the Indians had been permitted to match their wits in the market place with the new settlers who were pouring into western Canada.

The Perils of Protectionism

True enough, the Indian was not an agriculturalist. But he could have learned the hard way, through crop failures. The trouble with the Queen's philosophy (Did you know that Queen Victoria was a socialist?) is that it insisted that the Indian be protected against the possibility of being rooked in a trade with an unscrupulous capitalist. Penned in on his reserved lands, the Indian was not allowed to farm for the market place. The white man who was supposed to be the Indian's keeper became his jailer, shutting him behind a buckskin curtain for a wholly questionable good.

With enough welfare money in his pocket to buy firewater, the Indian was under no compulsion to take jobs building the railroads or clearing the forests. Japanese and Chinese laborers came in to do the strong-arm work and remained to become self-respecting gardeners and restaurant owners. While strong-backed people from Eastern Europe made farms for themselves and took their chances in the market, the Indian sank deeper and deeper into sloth. His children, taken from the wild and forced to sit in government schools, learned little of value to a future on a reservation or in a city ghetto.

The crowning blow came when the Northern Indian was forced to become a "protected" trapper. Originally, the Indian trapper could sell his furs where he pleased. The Hudson's Bay Company was the big buyer. To get a continuing supply of furs, the Hudson's Bay Company would advance the Indian enough money for a season's grubstake. The socialists of Saskatchewan thought it demeaning for the Indian to have to go to a capitalist organization for a livelihood. Accordingly, they set up a State Marketing Service and made it a punishable offense for the Indian to sell his furs elsewhere.

Unfortunately the socialists failed to follow through with any of the capitalist services that the Hudson's Bay Company had provided. Where the Indian trapper had once been able to get $400 in credit and food to go on the trap-

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line for a full season, the socialists insisted on pay-as-you-go. They limited the size of the initial amount a trapper could borrow to some twenty dollars. This meant that the trapper could only stay out for a week at a time. When he returned with his pelts, he had to wait around for the Marketing Service check. It seldom came on time. Naturally the Indian's periods of drunkenness became more frequent and more prolonged. But the wicked capitalist – i.e., the Hudson's Bay Company—had been defeated.

A Century of Medicare

The Indians of Canada have had socialized medicine for a far longer period than their white brothers. But in Saskatchewan, according to Mr. Shumiatcher's evidence, the incidence of sickness, particularly of communicable disease, is greater among the Indians than among the population as a whole. The life expectancy of the Indian has fallen behind that of the general population. Tuberculosis and venereal disease once threatened to end the "Indian problem" by depleting their bands. The deplorable health record of the reservation Indian was compiled at a time when he had a right to claim medical and hospital services "without money and without price." After watching what bureaucratic medicine has done to the Indian, Mr. Shumiatcher trembles to think what may happen to the population as a whole now that all Canadians have the same medical "rights" that the Indian has had for five generations.

Looking into the future, Mr. Shumiatcher suspects that the whole of Canada will become a vast reservation for everybody. Unfeeling people have talked about the "seven deadly sins of the Indian." First, the Indian is dirty. Second, he is withdrawn from normal society. Third, he won't work. Fourth, he is unreliable and aimless. Fifth, he is a school dropout. Sixth, he is promiscuous. And seventh, he escapes from reality through alcohol and peyote. These are the sins that develop when one is not forced to compete in the world. Mr. Shumiatcher sees all these deadly sins repeated in the white hippie pads that have been spreading over Canada.

Reservations for Everyone?

The bloom goes quickly from the flower children. Promiscuity in the pads and communes has increased venereal disease among the young in a terrifying way; one estimate is that the increase has gone as high as 1,000 per cent in five years. The hippie is supported in his indolence by a mixture of panhandling, shoplifting, and remittances

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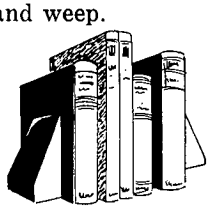
from spineless parents. This is welfarism of a sort, especially when the panhandling and shoplifting is condoned. Mr. Shumiatcher has an uneasy feeling that the hippie way of life will more and more spread to the general population as the politicians, seekin votes, offer bigger and better handouts, thus emulating the spineless parents who have allowed their offspring to grow up with the impression that affluence is no longer dependent on dedication, training and work.

Though Mr. Shumiatcher's book is limited to Canada, it could, presumably, have drawn upon "south of the border" material to make the same points. The U.S. has done badly by its Indians by following practices that are very similar to those instituted by the Queen's commissioners in Canada. If our hippie problem has been mitigated, it is largely because many of our flower children have gone to Toronto and other Canadian cities to escape the Vietnam War. As for our State Welfarism, it grows apace.

Will it soon be "Lo! The poor White Man"? Read Mr. Shumiatcher and weep.



▸ JOSEPH STORY AND THE AMERICAN CONSTITUTION by James McClellan (Norman, Oklahoma: University of Oklahoma Press, 1971) xvii, 413 pp, $12.50.

Reviewed by Gottfried Dietze

THE GREAT HOPE of the American Revolution was that self-government would lead to an increasing emancipation of the individual. Fortunately, the Founding Fathers, in what John Fiske called the critical period of American history, also knew that excesses of democracy could be detrimental to freedom by opening the door to majoritarianism and anarchy. Displaying the kind of common sense Blackstone hoped would prevail among the members of Parliament – who would consider themselves bound by the common law and refrain from oppressing life, liberty and property – Americans, in order to secure free government, adopted a Constitution providing for a more perfect Union. Implied in this Union was a balance between the rights and powers of the states and the nation, acting as mutual checks upon arbitrary government. Since the new nation was to be formed out of existing states and since the powers of the national government were few and defined, whereas those of the states were many and not enumerated,

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the immediate implementation of the federal balance involved a strengthening of the national government. The difficulty of that task is reflected in Alexander Hamilton's letter to Gouverneur Morris of February 27, 1802, in which he writes that he was "still laboring to prop the frail and worthless fabric." Earlier, *The Federalist* had left no doubt that the more perfect union was a mere means for securing the rights of the individual. In essay 78 of that commentary, Hamilton also stated that the judiciary was to be the guardian of the Constitution and the free government it created.

In the exercise of that guardianship during the first decades of the new nation, Chief Justice Marshall generally is credited with having played the major part. However, upon reading McClellan's attractive, scholarly book, the student of government may well decide that at least as much credit is due to Justice Story. Story was only 32 years old when in 1811 President Madison named him to the Supreme Court. At that time, the high bench had been presided over by John Marshall for ten years and he was to continue to head it for nearly another quarter of a century. While this reviewer feels that the Marshall Court had distinguished itself before it was joined by Story, through such important decisions as *Marbury v. Madison* (1803) and *Fletcher v. Peck* (1810), Mr. McClellan emphasizes the importance of Justice Story for American constitutional development, showing the broad range of Story's interests and achievements.

When appointed to the Court, Story had been a member of Congress, a Speaker of the House in his home state, Massachusetts, the author of various books on the law and a volume on poetry. While on the Court, he published his classic *Commentaries on the Constitution* and became a founder of the Harvard Law School where he taught for sixteen years. The author marshalls evidence that Story was a true renaissance man. He could have added that Story translated and commented upon Robert von Mohl's work on the American Constitution, a study which indicates that the outstanding German constitutionalist of his time had insights similar to those of Tocqueville.

The author emphasizes that Story is unique in that he was the first and only disciple of Edmund Burke ever to sit on the Supreme Court. This may be technically correct if discipleship implies an unequivocal acknowledgment of influence. There were, of course, many conservatives on the high bench who, like Story, felt

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that the Constitution was no mere reflection of temporary whims of the American general will but was a transmutation of constitutionalist principles which had gradually become embodied in Western civilization, such as Christian ethics, natural law and the common law. The fact that in recent years the Court has moved away from these principles must not lead us to forget that up to Franklin Roosevelt's court-packing plan, the Court generally was considered a conservative institution and a bulwark for laissez faire.

A strong defender of private property, Story, in the famous Charles River Bridge case of 1837, dissented from the majority of the Court. "In a powerful, exhaustive dissent, Story proudly excoriated the Court in the name of property and the constitutionally protected rights of the common law. This last great undertaking on behalf of property was his best, a *magnum opus* which epitomized years of study spanning more than three decades of dedicated effort." Declaring that he stood behind Marshall's decision in *Fletcher v. Peck*, a decision which gave broad protection to property rights through the doctrine of implied limitations, Story exclaimed: "I stand upon the old law, upon law established more than three centuries ago, in cases contested with as much ability and learning as any in the annals of our jurisprudence, in resisting any such encroachments upon the rights and liberties of the citizens, secured by public grants. I will not consent to shake their title deeds by any speculative niceties or novelties." There was "no surer plan to arrest all public improvements, founded on private capital and enterprise, than to make the outlay of that capital uncertain and questionable, both as to security and as to productiveness." Negating Marshall's doctrine of implied limitations amounted to an infringement upon the constitutional provision that no state shall make laws impairing the obligation of contracts – laws which had prompted the desire for the Philadelphia Convention and a more perfect union.

Like Marshall, Story favored a strong national government. Since our time had been characterized by a march of power to Washington to the detriment of freedom, it could be argued that Story's emphasis on national power potentially hurt the very values he was favoring, namely, Christian ethics, natural law, the common law and the Constitution with their far-reaching protection of human rights, including those of property. Such a verdict would be unfair to Story who wanted national power (rudimentary as it

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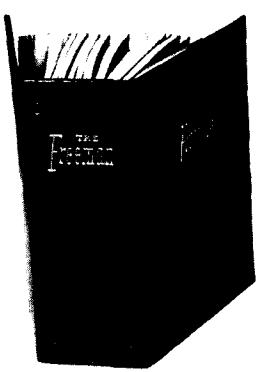
was at his time) only as a means for the protection of those rights from the states, whose power at that time was considerable. Just as he resented oppression by the state governments, he also would have disliked a despotic national government. Similarly, it would be unfair to blame Story for favoring judicial review. For, again, he conceived of that institution as a mere means for the preservation of free government and not as one for the promotion of social legislation and perverted concepts of civil rights.

Mr. McClellan is to be congratulated for having shed new light on one of America's greatest jurists—perhaps the greatest of them all. Given the recent publication of Gerald T. Dunne's *Justice Joseph Story and the Rise of the Supreme Court,* the important role Justice Story played in the development of the American Constitution at last may well get the recognition that has long been its due.



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